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PART V

Bills introduced in the Constituent Assembly of India (Legislative), Reports of Select Committees presented to the Constituent Assembly (Legislative) and Bills published under Rule 18 of the Constituent Assembly (Legislative) Rules.

GOVERNMENT OF INDIA

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)

The following Bills were introduced in the Constituent Assembly of India (Legislative) on the 3rd December, 1947:—

L. A. BILL No. 58 OF 1947

A Bill further to amend the Code of Criminal Procedure, 1898

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898 (V of 1898);

It is hereby enacted as follows:—

1. **Short title, extent and commencement.**—(1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 1947.

(2) It shall come into force on the date of its publication in the Gazette of India.

(3) It shall extend to the whole of the Dominion of India including Indian States.

2. **Insertion of new Chapter XXIV in Schedule II to Act V of 1898.**—After Chapter XXIII in Schedule II to the Code of Criminal Procedure, 1898 (V of 1898), the following new Chapter shall be inserted namely:—

“CHAPTER XXIV

OF OFFENCES RELATING TO AGRICULTURAL ANIMALS

1	2	3	4
512	Killed or causing to be killed cow, calf, bullock or bull.	Shall arrest without warrant.	Warrant.
5	6	7	8
Not bailable.	Not compoundable.	Imprisonment of either description for seven years or fine or both.	Magistrate of the first class.”

STATEMENT OF OBJECTS AND REASONS

The object of this amendment is to protect the agricultural animals. India being an agricultural country, is running short of food materials. Cows, bulls, bullocks being the only motive-force of Indian agricultural implements, the animals should be spared from slaughtering. Hence legislation of this nature is not only the necessity but a just and economic demand of time.

As the amendment to Indian Penal Code, 1860, has been moved, this amendment is necessary so as to provide the procedure for the amendment.

RAM SAHAI.

L. A. BILL No. 59 OF 1947

A Bill further to amend the Indian Bar Councils Act, 1926, and the Legal Practitioners Act, 1879

WHEREAS it is expedient further to amend the Indian Bar Councils Act, 1926 (XXXVIII of 1926), and the Legal Practitioners Act, 1879 (XVIII of 1879), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. Short title.—This Act may be called the Indian Bar Councils and the Legal Practitioners (Amendment) Act, 1947.

2. Amendment of Section 10, Act XXXVIII of 1926.—To sub-section (1) of section 10 of the Indian Bar Councils Act, 1926 (XXXVIII of 1926), the following explanations shall be added, namely:

“*Explanation (i).*—The holding of any political opinion or the expression of it in any form or act provided it does not involve violence and incitement to or abatement of violence is not misconduct under this sub-section.

“*Explanation (ii).*—Conviction under any Law or Ordinance, general, special, local or otherwise, or under any rules, including conviction under section 124-A of the Indian Penal Code (XLV of 1860), for any political offence where the person convicted is not found guilty of violence or incitement to or abatement of violence is no proof of misconduct.”

3. Insertion of new section 13A in Act XVIII of 1879.—After section 18 of the Legal Practitioners Act, 1879 (XVIII of 1879), the following new section shall be inserted, namely:

“13A. Notwithstanding anything contained in sections 12 and 13, no pleader or mukhtar holding a certificate as aforesaid shall be liable to be proceeded against or punished under those sections for holding any political opinion or for expressing it in any form or act, provided it does not involve violence or incitement to or abatement of violence, nor for having been convicted under section 124-A of the Indian Penal Code (XLV of 1860) or under any general, special or local law or ordinance or under any rules, if he has not been found guilty of violence, or incitement to or abatement of violence.”

4. Provision for restoration of a legal practitioner to his former status.—Any advocate, pleader or mukhtar against whom any proceedings or disciplinary action have been taken under the Indian Bar Councils Act, 1926 (XXXVIII of 1926), or the Legal Practitioners Act, 1879 (XVIII of 1879), before the commencement of this Act, may within one year from the commencement of this Act apply to have the proceedings dropped or the disciplinary action set aside; and if it is proved that such proceedings or disciplinary action could not have been taken if this Act were at that time in force, the proceedings shall be dropped and the disciplinary action set aside forthwith, and the person restored to his former status.

STATEMENT OF OBJECTS AND REASONS

There have recently come before the Courts many cases in which legal practitioners who were convicted of offences under such emergency ordinances like the Defence of India Rules for their political activities were debarred, in spite of their admittedly high character and professional integrity and in spite of the fact that the offences did not involve violence. In a recent case in the Madras High Court the entire Bar of the country gave the opinion that acts which did not involve violence did not amount to moral turpitude; but the Court reprimanded the advocate. The opinion of the several High Courts are not uniform on this subject. The Calcutta High Court has held that such non-violent political activities did not amount to defect of character. Public opinion as also the considered opinion of the legal profession in the country is against striking lawyers off the Rolls for their non-violent political activities. In the course of a country's struggle for freedom and in view of the impending constitutional changes in the country, all citizens including lawyers should be free to serve without fear or favour. It is very often the case that persons who have been imprisoned for their political opinions or activities are persons of noble character and are the chosen leaders of the people, respected and honoured. Some of

these are even culled to fill high posts of honour and responsibility on political changes occurring in the country. The administration of law and justice stultifies itself by proceeding against such persons. This amendment has long been felt necessary. Even in the last assembly a Bill was introduced for the purpose. The proposed amendment seeks to bring the law into conformity with the progressive ideas of the people.

T. A. RAMALINGAM CHETTIYAR.

L. A. Bill No. 60 of 1947

A Bill to repeal the Criminal Tribes Act, 1924

WHEREAS it is expedient to repeal the Criminal Tribes Act, 1924 (VI of 1924); It is hereby enacted as follows:—

1. **Short title, commencement and extent.**—(1) This Act may be called the Criminal Tribes (Repeal) Act, 1947.
- (2) It shall come into force immediately.
- (3) It shall extend to the whole of British India.
- 2 The Criminal Tribes Act, 1924 (VI of 1924) is hereby repealed.

STATEMENT OF OBJECTS AND REASONS

The Criminal Tribes Act, 1924, is oppressive and inhuman. Instead of improving the morale of the backward communities, it has the tendency to make them deteriorate mentally and morally. The Act is a blot on the statute book and should not be allowed to stand in it any more.

N. G. RANGA.

L. A. BILL NO. 61 OF 1947.

A Bill further to amend the Indian Insurance Act, 1938

WHEREAS it is expedient further to amend the Insurance Act, 1938 (IV of 1938) for the purpose hereinafter appearing;

It is hereby enacted as follows:—

1. **Short title.**—This Act shall be called the Insurance (Amendment) Act, 1947.
2. **Amendment of section 4, Act IV of 1938.**—In sub-section (1) of section 4 for the words beginning with the words "No Insurer" and ending with the words "shall pay" the words and figures "No Insurer, not being a Co-operative Life Insurance Society to which Part IV of this Act applies, shall pay" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Co-operative Insurance Societies were started mainly to help persons of small means, both in rural and urban areas. The Insurance Societies are insuring lives for Rs. 1,000 and upwards. It is not within the means of ordinary ryots and artisans, labourers and lower middle classes to make the requisite payment for policies of Rs. 1,000 and upwards. So the Co-operative Life Insurance Societies which were formed to cater to the needs of these people were exempted from the rule, restricting Insurance to Rs. 500 and above which was raised in 1946 to Rs. 1,000 and upwards for Insurance Societies. In the year 1946 when the amending Bill was before the Indian Legislative Assembly, this exemption was sought to be amplified; but by a mistake the actual amendment that was passed took away the exemption by an incorrect wording of section 5A(i) of the amending Act. The Insurance Amendment Bill introduced by the Government in 1947 recognised the mistake and wanted to rectify it by giving power to the Government to exempt the Co-operative Life Assurance Societies. The Select Committee which has reported on this Bill has made the following recommendation:—

Clause 4—"We consider that all Co-operative Life Insurance Societies to which Part IV of the Act applies should be exempt from the minimum limits laid down in sub-section (1) of section 4 and the position of such Societies should be as it was before the Insurance (Amendment)

Act, 1946. Section 5(a)(i) of that Act appears to have been incorrectly worded, and we have revised clause 4 in order to rectify this error."

and revised section 4(i) as below:—

"4. *Amendment of section 4, Act IV of 1938.*—In sub-section (i) of section 4 of the said Act, for the words beginning with the words 'No Insurer' and ending with the words 'shall pay' the words and figure 'No Insurer, not being a Co-operative Life Insurance Society to which Part IV of this Act applies, shall pay' shall be substituted."

On account of the change made in 1946, the transactions in the Co-operative Insurance Societies have been seriously affected and the poorer section of the community have been deprived of the benefits of Insurance which were supplied by these Co-operative Insurance Societies. In the interests of ryots, labourers and artisans and other persons of limited means, it is necessary that benefits of Insurance should be returned to them as early as possible. The Government Bill as amended by the Select Committee will probably be taken up by the Assembly sometime next year, in view of pressure of business in the Assembly. On account of urgency, I have given notice of this Bill separately.

T. A. RAMALINGAM CHETTIYAR.

L. A. BILL No. 62 OF 1947

A Bill further to amend the Indian Penal Code

WHEREAS it is expedient further to amend the Indian Penal Code (XLV of 1860), for the purpose hereinafter appearing;

It is hereby enacted as follows:—

1. Short title.—This Act may be called the Indian Penal Code (Amendment) Act, 1947.

2. Amendment of section 124A, Act XLV of 1860.—That in place of section 124A of the Indian Penal Code, the following shall be substituted, namely:—

"124A. *Sedition.*—Whoever by words, either spoken or written or by signs or by visible representation, or otherwise, with the intention of bringing into hatred or contempt, or exciting disaffection towards Her Majesty (or the Crown Representative), or the Government established by Law in India (or British Burma), incites any person or persons to violence, or to cause public disorder, or to disturb public tranquility, shall be punished with imprisonment which may extend to three years, to which fine may be added, or with fine.

Explanation.—The expression 'disaffection' includes disloyalty and all feelings of enmity."

STATEMENT OF OBJECTS AND REASONS

The law of sedition incorporated in section 124A as it stands has undergone a great change with the advance of political thought. The section is completely out of date and its language is unduly restrictive and susceptible of a very narrow construction. It has been often interpreted by the courts of law in India in a very limited sense and it has been frequently applied by the executive to suppress the free right of speech. The present Bill aims at bringing the law of sedition in this country in line with the law on the subject as it stands in other civilized countries, that is to say, a mere expression of ideas unless accompanied with incitement to violence, etc., should no longer fall within the mischief of the offence of sedition. The recent ruling of the Federal Court reported in A.I.R. 1942 F.C. 22 has clarified the position and affords a complete justification for the change suggested.

MUKUT BIHARI LAL BHARGAVA.

L. A. BILL No. 63 OF 1947.

A Bill further to amend the Provincial Insolvency Act, 1920.

WHEREAS it is expedient further to amend the Provincial Insolvency Act, 1920 (V of 1920), for the purpose hereinafter appearing;

It is hereby enacted as follows:—

1. Short title.—This Act may be called the Provincial Insolvency (Amendment) Act, 194 .

2. Amendment of section 28, Act V of 1920.—After sub-section (4) of section 28 of the Provincial Insolvency Act, 1920 (V of 1920) the following sub-section shall be inserted, namely:—

“(4A) Where the insolvent is the manager of a Joint Hindu family the property of the insolvent shall comprise and be deemed to have always comprised the capacity to exercise and to take proceedings for exercising all such powers, in, or over, or in respect of property as might have been exercised by the insolvent for his own benefit or for the benefit of the joint family at the commencement of the insolvency or before his discharge.”

STATEMENT OF OBJECTS AND REASONS

A Bill has been sponsored by the Government of India, on 17th March, 1947, for an amendment of the Provincial Insolvency Act, 1920 (V of 1920) so as to bring it into line with the Presidency Towns Insolvency Act, 1909 (III of 1909) in respect of the vesting in the Official Receiver of a Hindu father's power to sell his son's share in the Joint Family estate for discharge of his own debts not illegal or immoral which has been held not to exist by a Full Bench of the High Court of Madras in a case reported in I.L.R. 1913, Madras 83. The statement of objects and reasons appended to the Bill is as follows:—

“As a result of the decisions of the Privy Council in *Satnarayan V. Beharilal*, I.L.R. 6, Lahore, 1, and *Satnarayan V. Sri Kishendas*, same V. Bank of Upper India, I.L.R. 17, Lahore 644, the right of a Hindu father to sell family property to discharge family debts lawfully incurred can not be deemed to be property within the meaning of Sec. 2(e) or of Sec. 17 of the Presidency Towns Insolvency Act, 1909 (III of 1909), and therefore does not devolve upon the Official assignee under Sec. 17 of the Act. The Judicial Committee held however, that the power of the father to sell his son's property to discharge his own lawful debts does devolve upon the Official assignee by reason of Sec. 52(2)(b) of the Act.

“While the Provincial Insolvency Act contains in sections 2(d) and 28(2) provisions identical with those embodied in sections 2(c) and 17, of the Presidency Towns Insolvency Act, there is in the Provincial Insolvency Act, 1920 (V of 1920), no provision corresponding to section 52 of the Presidency Towns Insolvency Act. In consequence a conflict of opinion has arisen among the High Courts as to whether, in the case of an adjudication under the Provincial Insolvency Act, the power of the father to sell his son's interest in the family estate to meet his own legitimate debts devolves upon the official receiver as it does in the Presidency Towns Insolvency Act.

“In the course of a Full Bench decision reported in I.L.R. 1943, Madras 88, the Madras High Court suggested that central legislation should be promoted to bring the Provincial Insolvency Act into line with the Presidency Towns Insolvency Act, in the relevant respect.”

It is submitted that the Bill is defective in two very material particulars.

In the first place the Bill is not retrospective in operation, and unless the Bill is made retrospective the hardship caused to innumerable creditors and purchasers in Insolvency by the law as declared by the F. Bh. decision in

I.L.R. 1943, Madras 83, does not stand remedied. Even if I.L.R. 1948 Madras 83, continued to be good Law without any Legislative interference creditors in future would not be misled. They would hereafter be regulating their own conduct according to that decision. It is the creditors who have been misled by the state of Law prior to I.L.R. 1943, Madras 83, that really require to be protected. Innumerable sales in innumerable Insolvencies under the Provincial Insolvency Act must have taken place during well nigh a period of two decades that elapsed since the earlier F. Beh. ruling, reported in I.L.R. 49, Madras 849, the case of a father and the ruling is 52 Madras 246, the case of a Manager not being the father down to the later F. Beh., the late F. Beh. ruling in I.L.R. 1948, Madras 83. The titles created by such sales which stand jeopardised by the later F. Beh. ruling, deserve to be saved. Moreover, the creditors themselves for the discharge of whose debts the sale, in the Insolvency might have taken place during this period would be left without a remedy, for the recovery of debts. Hence it is that the present Bill is brought forward now so that the Amendment of the Provincial Insolvency Act may be made retrospective in operation. In this connection it may not be out of place to recall the following observations made by Mr. Justice Somayya, in delivering judgment in S.A. No. 1807 of 1945, on 31st of July, 1946.

"The sales which took place between 1900 and 1943 were affected by the decision (1943, Madras, 83, F.B.) and in most cases purchasers would have no remedy, whatsoever particularly as there is no warranty of title in cases of sales held by the official receiver. It was high time that the legislature moved or was moved in the matter and necessary legislation made in order to protect the title that has been acquired between 1900 and 1943 and thereafter. It was regrettable that in spite of the defect being pointed by a F.B. of the High Court as early as 1942, the legislature should not have acted during all these four years to set the matter right."

Secondly, the F. Beh., decision reported in I.L.R. 1943, Madras, P, 88 is itself the case of a manager whose power to sell the interests of the other co-parceners in the family estate for discharge of debts binding on the family [like the father's power to sell for discharge of his own debts not illegal or immoral to which the F. Beh. ruling has been extended by a Bench ruling reported in 1943, (2) M L J., 87, has been held by the F. Beh., not to vest in the official receiver. The consideration of hardship to creditors and purchasers which are adverted to above are as relevant to the case of the Insolvency of a Manager not being the father as to the case of a father's Insolvency. This Bill proposes an amendment comprehensive enough to cover the one class of cases as well as other.

G. DURGABAI

L. A. BILL No. 64 OF 1947.

A Bill to provide for prevention of forcible and fraudulent conversion of Hindu women.

WHEREAS it has become necessary and expedient to prevent forcible and fraudulent conversion of Hindu women and to make provision for the restoration to the original legal status, of Hindu women who have been so converted in the past :

It is hereby enacted as follows :—

1. **Short title and extent.**—(1) This Act may be called the Prevention of forcible and fraudulent conversion of Hindu Women Act, 1947.

(2) It applies to the whole of the Dominion of India.

2. Definition.—In this Act “Hindu” means any person who professes the Hindu religion and includes a Sikh, Buddhist, or a Jain.

3. Invalidation of conversions of Hindu women by force, fraud etc., and safeguarding of their rights and status.—All conversions of Hindu women to Islam brought about by force, fraud or undue influence are hereby declared invalid in law and notwithstanding anything contained in any other law for the time being in force or any custom or usage to the contrary all such Hindu women shall be entitled to all the rights and privileges and to the same status which they enjoyed before conversion, as if no such conversion had taken place.

4. Non-recognition of conversions of Hindu women below the age of eighteen.—No conversion of any Hindu woman who has not completed the age of eighteen-years shall be valid nor shall it be recognised by any law for the time being in force for any purpose whatsoever.

5. Condition precedent for valid conversion of a Hindu woman completing the age of eighteen.—No conversion of any Hindu woman who has completed the age of eighteen years shall be valid or recognised by any law for the time being in force for any purpose whatsoever unless such woman had three months before the date of her conversion obtained a certificate as hereinafter provided for.

6. Procedure for obtaining certificate for conversion.—(1) A Hindu woman who has completed the age of eighteen years and desires to be converted to another religion shall apply in person to the Presidency Magistrate or the Magistrate of the first class in whose jurisdiction she ordinarily resides for a certificate that she desires conversion to another religion of her own free will.

(2) On receipt of any such application as is mentioned in sub-section (1) the Magistrate shall examine the applicant on oath and if on such examination he finds that the applicant is not desirous of conversion of her own free will he shall summarily reject the application.

(3) If after any such examination of the applicant as is mentioned in sub-section (2) the Magistrate does not summarily reject the application he shall issue notice or notices to the person or persons hereinafter mentioned in section 7 calling upon them to appear and show cause on the day fixed in the notice why the certificate asked for by the applicant should not be granted to her.

7. Issue of notices.—If the applicant is—

- (a) an unmarried woman, notice or notices shall be issued to her parent or parents who might be living and in case none of her parents are living to her nearest relative ;
- (b) a married woman, whose husband is living, notice shall be issued to her husband ;
- (c) a widow, notices shall be issued both to her nearest relative in her husband's family and to her nearest relative in her father's family.

8. Procedure for holding inquiry.—(1) On the day mentioned in the said notice or on any other day which the Magistrate may fix, the Magistrate shall hear the applicant and the person or persons to whom notices had been issued under section 7 if present, on the question whether the applicant desires conversion to another religion of her own free will.

(2) The Magistrate may, if he thinks fit at any time before issuing his certificate, direct that with a view to remove all outward influence on the applicant, she shall be kept in any independent place (not being in charge of a person who professes a religion to which she wishes to be converted) to be approved by the applicant and for a period not exceeding in all fifteen days. The Magistrate shall at the expiration of the said period again examine the said applicant.

(3) If after the inquiry as is mentioned in the foregoing clauses, the Magistrate is satisfied that the applicant desires conversion of her own free will, he shall issue a certificate to her certifying that in his opinion the applicant desires conversion of her own free will.

9. Punishment for conversions in contravention of the Act.—Any person who converts a Hindu woman who has not completed the age of eighteen years, or any other Hindu woman who has not obtained a certificate as mentioned in section 5, any person who aids or abets any such conversion, and any person not being a Hindu, who keeps in his house or residence any such Hindu woman, having reason to believe that she has been so converted, shall be punished with rigorous imprisonment for a term which may extend to five years and shall also be liable to fine not exceeding Rs. 2,000.

STATEMENT OF OBJECTS AND REASONS

Hindu women have been forcibly converted to Islam in recent times on a very large scale in various parts of the country. It has been condemned by all decent people and our leaders agree that these conversions are not conversions that could be recognised. However as Hindu Law stands at present it is desirable and necessary to invalidate all these conversions by Law and to restore such women to their former legal status and rights and privileges. Young girls belonging to Hindu community still continue to be the victims of certain unscrupulous and undesirable non-Hindu elements in the country and it is therefore provided that no Hindu girl who has not completed the age of 18 years could be legally converted. In the case of other women also there are numerous cases of conversions being brought about by force, fraud or undue influence. Provision is therefore made in the Bill for prevention of such conversions in future. Tampering with women of Hindu community in this way leads to communal hatred of the worst type. The provisions are therefore necessary for maintenance of inter-communal peace and harmony.

H. V. PATASKAR.

L. A. BILL NO. 65 OF 1947.

A Bill to preserve the milch and draught cattle of the country.

WHEREAS, India being agricultural country, it is expedient to preserve the cattle to help agriculture and to increase and preserve the milch and draught cattle;

It is hereby enacted as follows:—

1. Short title, extent and commencement.—(1) This act may be called the Indian Cattle Preservation Act, 1947.

(2) It shall extend to the whole of the Dominion of India.

(3) It shall come into force on the 1st day of 1948.

2. Definitions.—In this Act, unless there is anything repugnant in the subject of context,—

(a) "Cattle" shall mean and include cows, bullocks, their young calves, he and she-buffaloes and their young calves.

(b) "Person" shall mean and include any Company or Association or Body of persons whether incorporate or not.

3. Stopping of cattle Slaughter.—No person shall wilfully kill or slaughter a cattle either for food or any other purpose either in a licensed slaughter house or any public or private place.

4. Penalty and procedure.—(1) Any person who wilfully contravenes the provision of section 3 and kills or causes to be killed a cattle shall be punishable with fine for each such offence upto a maximum of rupees five hundred or with rigorous imprisonment for six months or with both. In addition to the above sentence the convicting magistrate may, in his discretion, at the time of the passing of the sentence for the offence under section 3 above, call upon the person convicted to execute a Bond for a sum proportionate to his

means with or without sureties for abstaining from commission of such offence during such period not exceeding two years as he thinks fit to fix.

(2) The Inspector of Police or any Officer specially authorised or appointed in this behalf by the Local or Central Government shall take cognizance of the offence committed under this act.

5. Application of the Act by Provincial Governments.—The provisions of this Act shall be made applicable by the Provincial Governments to the territories governed by them within six months of the passing of this Act by a notification in Provincial Gazette.

STATEMENT OF OBJECTS AND REASONS

India is an Agricultural country and needs draught animal. India is deficient in milk and also needs milch cattle. The cows and buffaloes and the bullocks provide these two pressing needs. It is therefore necessary to preserve and increase supply of draught animals and milch animals by stoppage of slaughter of cows, bulls, bullocks, he and she-buffaloes and calves of these animals.

GOVIND DAS

L. A. BILL No. 66 OF 1947.

A Bill further to amend the Indian Companies Act, 1913

WHEREAS it is expedient further to amend the Indian Companies Act, 1913 (VII of 1913);

It is hereby enacted as follows:—

1. Short title, commencement and extent.—(1) This Act may be called the Indian Companies (Amendment) Act, 194 .

(2) It shall come into force on the 194 .

(3) It extends to the whole of British India including British Baluchistan and the Santhal Parganas.

2. Amendment of Section 86F, Act VII of 1913.—The present section 86F of the Indian Companies Act, 1913 (VII of 1913), shall be renumbered as sub-section (1) of section 86F and to the section as so renumbered the following sub-section shall be added, namely:—

“(2) Any director of the company acting in contravention of sub-section (1) shall be deemed to have vacated his office as a director of the company as from the date of such contravention and shall not be eligible for being elected a director of the company for a period of five years thereafter and shall also be punishable with fine which may extend to Rs. 1,000.”

STATEMENT OF OBJECTS AND REASONS

Section 86F was enacted to ensure honesty of dealings on the part of a company's director and to secure the interests of the company. However, it has been found that the provision is not enough to achieve this object. Instances have occurred where a director who infringed this provision managed to get elected director of the same company. The present section 86F which provides that the office of such a director shall be vacated does not act as a strong deterrent against any infringement of section 86F. The object of the present amendment is to provide such a deterrent by rendering him ineligible for election as a director of the company for a number of years and imposing a heavy fine on him.

(Dr.) P. S. DESHMUKH.

L. A. BILL No. 67 of 1947.

A Bill further to amend the Indian Companies Act, 1913

WHEREAS it is expedient further to amend the Indian Companies Act, 1913 (VII of 1913), for the purposes, hereinafter appearing:

It is hereby enacted as follows:—

1. Short Title.—This Act may be called the Indian Companies (Amendment) Act, 194 .

2. Amendment of section 25, Act VII of 1913.—In sub-section (1) of section 25 of the Indian Companies Act, 1913 (VII of 1913) (hereinafter referred to as the said Act).—

For the words “every member” the words “any person” shall be substituted.

3. Amendment of section 31, Act VII of 1913.—In sub-section (1) of section 31A of the said Act, after the words “members of the company” the words “and in case of joint-holders of the names of every joint holder separately” shall be inserted.

4. Amendment of section 32, Act VII of 1913.—In sub-section (2) of section 32 of the said Act, after the words “the dates of registration of transfers” the words “names of transferees whose applications for transfers of shares were refused and the number of shares comprised in each such transfer” shall be inserted.

5. Amendment of section 36, Act VII of 1913.—In sub-section (3) of section 36 of the said Act, after the words “to that person” the words “certified to be a true copy by an officer of the company” shall be inserted.

6. Amendment of section 87F, Act VII of 1913.—In section 87F of the said Act, the words “A statement of investments in such shares or debentures shall be placed every year before the share-holders at the Annual General Meeting of the company for approval” shall be added at the end.

7. Amendment of section 105C, Act VII of 1913.—In section 105C of the said Act, after the words “(irrespective of class)” the words “except holders of redeemable Preference shares” shall be inserted.

8. Amendment of section 131A, Act VII of 1913.—In sub-section (2) of section 131A the words “The report shall state whether the report was unanimously passed by directors present or not, and where the report is not unanimous the dissenting director shall have a right to add a dissenting note to the Report and the same shall be published in the Report and form part of the same” should be added at the end.

9. Amendment of section 134, Act VII of 1913.—In sub-section (1) of section 134 of the said Act, after the words “three copies thereof” the words “and of the report of Directors and of Auditors to the share-holders” shall be inserted.

10. Amendment of section 137, Act VII of 1913.—In sub-section (1) of section 137 of the said Act, after the words “the provisions of this Act” the words “or on the written application of members holding one-tenth of the shares issued” shall be inserted.

11. Amendment of section 145, Act VII of 1913.—In sub-section (4) of section 145 of the said Act, for the words “to attend any” the words “shall attend every” shall be substituted.

12. Amendment of Third Schedule, Act VII of 1913.—In Form E of the Third Schedule of the said Act, after the present tabular statement showing

the list of persons holding shares, etc., a tabular statement to the following effect shall be inserted:—

Particulars of transfers of shares refused after the date of the last return.

Date of refusal	Name/s and address of the share-holder/s transferring share/s	Name/s and address of the person/s in whose favour the transfer was executed	Number of shares involved in each transfer	Class of shares
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STATEMENT OF OBJECTS AND REASONS

Clause 2.—The object is to enable persons to know the provisions of the Memorandum and of Articles of Association of a Company before subscribing for or purchasing shares in it.

Clause 3.—The proposed amendment appears to be included in the section itself, but it is not in practice observed, as a result of which it is impossible or very difficult to trace the names of joint members from the Register, particularly when a joint member other than the first one executes any document wherever he is entitled to do so.

Clause 4.—The policy, if any, of acceptance and rejection of transfers should be known to all concerned.

Clause 5.—It is desirable that a copy supplied of any Register of Members or of any part thereof or of the list and summary required by the Companies Act, be certified to be true by an officer of the company.

Clause 6.—It is desirable that Members should have information as regards investments in shares or debentures of any company under the management of the same Managing Agents.

Clause 7.—This is to prevent Redeemable Preference Share-holders from acquiring additional rights as these shares are liable to be paid off in course of time.

Clause 8.—It is desirable that the share-holders should know the dissenting opinion of a Director.

Clauses 9 and 10.—In a recent case where an application was made to the Registrar of Companies, Bombay, under section 187(1) to call for information in view of certain statements made in the Auditors' Certificate reflecting on the management of the company, it appears to have been suggested that no action could be taken under the section inasmuch as there was no provision in the Act requiring the Auditors' Certificate to be filed. It is, therefore, desirable to expressly provide that the Directors' Report and the Auditors' Report should be filed with the Registrar.

Clause 11.—The object of this amendment is to ensure the presence of Auditors at General Meetings instead of leaving it to their option.

Clause 12.—The object of this amendment is to bring Form E of the Third Schedule into conformity with the proposed amendment in section 32(2).

(Dr.) P. S. DESIMUKH

L. A. BILL No 68 OF 1947.

A Bill further to amend the Indian Penal Code 1860.

(XLV of 1860);

It is hereby enacted as follows:—

1. Short Title, extent and commencement.—(1) This Act may be called the Indian Penal Code (Amendment) Act, 194

(2) It shall come into force on the date of its publication in the Gazette of India.

(3) It shall extend to the whole of the Dominion of India including Indian States.

2. Insertion of new Chapter XXIV in Act XLV of 1860.—After Chapter XXIII of the Indian Penal Code, 1860 (XLV of 1860), the following new Chapter shall be inserted namely:—

“CHAPTER XXIV

OF OFFENCES RELATING TO AGRICULTURAL ANIMALS

512 Whoever kills or causes to be killed a cow, calf, bull or bullock shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.”

STATEMENT OF OBJECTS AND REASONS

The object of this amendment is to protect the agricultural animals. India, being an agricultural country, is running short of food materials. Cows, bulls, bullocks being the only motive-force of Indian agricultural implements, the animals should be spared from slaughtering. Hence legislation of this nature is not only the necessity but a just and economic demand of time.

RAM SAHAI.

L. A. BILL No. 69 OF 1947.

A Bill further to amend the Code of Criminal Procedure, 1898

¶ WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898 (V of 1898), in certain respects;

¶ It is hereby enacted as follows:—

1. Short title.—This Act may be called the Code of Criminal Procedure (Amendment) Act, 1947

2 Amendment of section 496, Act V of 1898.—In section 496 of the Code of Criminal Procedure, 1898 (V of 1898), (hereinafter referred to as the said Code)—

(i) for the words “other than a person accused of a non-bailable offence” the words “is accused, complained or suspected of any bailable offence or” shall be substituted; and (ii) between the words “Court” and “and”, the words “as being accused, complained or suspected of any such offence” shall be inserted.

3. Amendment of section 497, Act V of 1898.—In sub-section (i) of section 497 of the said Code—(i) for the words “accused of any non-bailable offence” the words “is accused, complained or suspected of any non-bailable offence or” shall be substituted; and (ii) between the words “Court” and “he” the words “as being accused, complained or suspected of any such offence” shall be inserted

STATEMENT OF OBJECTS AND REASONS

The Bill seeks to set at rest the doubt expressed by many courts that unless the accused is apprehended or surrenders his person he cannot be released on bail in accordance with the provision of sections 496 and 497 of the Criminal Procedure Code to change the Law of such charge is necessary. Many accused persons abscond for fear of Police apprehension or torture and would gladly stand a trial and vindicate themselves before a Court of Law if they were assured they will not be unnecessarily remanded to Police custody. The present Police methods of investigation and interrogation from accused are in many places anything but desirable and it is notorious that confessions made by accused while in Police custody are but

seldom stuck to in courts. It is not unheard of that the Police abuse the provisions of Law with regard to bail even in bailable cases. Many honest and respectable persons would prefer ignobly flying away from justice rather than subject themselves to the ignominy and indignity of police arrest and custody. When it is remembered that a very large percentage of persons prosecuted is discharged or acquitted by courts and malicious prosecutions and false implications by enemies in bailable and non-bailable offences are not rare and under the law as at present interpreted by some courts the ordeal of Police custody is necessary to be undergone by every accused howmuchsoever innocent. The need of a change in the Law or to get the doubt at rest in this regard becomes imperatively necessary. This Bill if enacted will enable accused to seek bail from courts even before they surrender themselves and in proper cases the courts will be able to save the honour and reputation of innocent accused and offer them protection from the trouble and indignity of police custody.

At present even if the accused is lying ill in Hospital and is unable to attend personally he cannot apply for bail according to the narrow interpretation of the law by the Courts

The policy of the law is to enlarge the liberty of the subject and "make the courts more of a shield for the innocent rather than a sword for the guilty". The Courts are armed by law in matters of bail and no change is sought to be introduced in the basic principle which regulate the exercise of the powers to grant or refuse or cancel bail whenever expedient or necessary.

The change is only in respect of persons who can invoke the aid of courts to save themselves from ruthless rigidity of the system which practically enjoins Police custody before the application of bail is disposed of on merits.

THAKUR DAS BHARGAVA.

Notes on Clauses

Clauses 2 & 3.—The change sought to be made is clear enough and there is no need of any explanation.

L. A. BILL No. 70 OF 1947.

A Bill further to amend the Code of Criminal Procedure, 1898

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898 (V of 1898), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. Short title, commencement and extent.—(1) This act may be called the Code of Criminal Procedure (Amendment) Act, 1947.

(2) It shall come into force immediately.

(3) It shall extend to the whole of British India.

2. Amendment of Section 161, Act V of 1898.—In sub-section (3) of Section 161 of the Code of Criminal Procedure, 1898 (V of 1898) (hereinafter referred to as the Said Code),—

(a) for the word "may" the word "shall" shall be substituted; and

(b) the words "if he does so he" shall be omitted.

3. Amendment of Section 162, Act V of 1898.—In sub-section (1) of Section 162 of the said Code, the words "if reduced into writing" shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Considerable hardship is caused to the accused and their counsel by giving the option of recording or not the statements referred to to the fancies of the

investigating officer. The provision has led also to abuse and the original intention of the Legislature has not been carried out. The amendment seeks to do away with these difficulties and help the administration of justice.

M. ANANTHASAYANAM AYYANGAR.

L. A. BILL No. 71 of 1947.

A Bill to regulate and validate marriages between different castes and sub-castes of Hindus.

WHEREAS it is expedient to regulate and validate marriages between Hindus of different castes and sub-castes in the manner hereinafter appearing;

It is hereby enacted as follows:—

1. Short title and extent.—(1) This Act may be called the Hindu Inter-caste Marriage Regulating and Validating Act, 1947.

(2) It extends to the whole of India.

2. Marriage between Hindus of different castes and sub-castes.—A marriage may be performed under this Act between Hindus who may or may not belong to the same caste or sub-caste upon the following conditions:—

(1) neither party must, at the time of the marriage, have a husband or a wife living;

(2) the man must have completed his age of twenty-one years, and the woman her age of sixteen years;

(3) if the woman has not completed the age of twenty-one years, she must have obtained the consent of her father or guardian to the marriage; and

(4) the parties must not be related to each other in any degree of consanguinity or affinity which would, according to any law to which either of them is subject, render a marriage between them illegal.

3. Registrar of marriages.—The Registrar of Marriages appointed by the Provincial Government under section 3 of the Special Marriage Act, 1872 (III of 1872), shall be deemed to be the Registrar under this Act also and is hereinafter referred to as "the Registrar".

4. Notice of marriage.—When a marriage is intended to be performed under this Act, both the parties, and where the woman is below the age of twenty-one years with her father's or guardian's written consent, must give notice in writing to the Registrar of the district within which one at least of the parties has resided for thirty days before such notice is given and within which the marriage is proposed to be performed.

Such notice may be in the form given in the First Schedule to this Act.

5. Marriage Notice Book.—The Registrar shall file all such notices and keep them with the records of his office, and shall also forthwith enter a true copy of every such notice in a book to be for that purpose furnished to him by the Provincial Government to be called the "Marriage Notice Book under the Hindu Inter-caste Marriage Regulating and Validating Act, 1947" and such book shall be open at all reasonable times without fee, to all persons desirous of inspecting the same.

6. Solemnization of marriage.—The marriage shall be solemnized in accordance with the religious rites and ceremonies as desired by the parties thereto within ninety days of the giving of the notice under section 4.

7. Declaration of marriage before Registrar.—Within fourteen days after the performance of the marriage the parties shall present themselves before the Registrar either at his office or at such other place within reasonable distance of the office of the Registrar as the parties desire and sign a declaration in the form contained in the Second Schedule to this Act.

8. Certificate of marriage.—The Registrar shall enter a certificate of their marriage in a book to be kept by him for that purpose and to be called "the Marriage Certificate Book under the Hindu Inter-caste Marriage Regulating and Validating Act, 1947" in the form given in the Third Schedule of this

Act, and such certificate shall be signed by the parties to the marriage and at least two witnesses of such marriage on behalf of each party. A true copy of this certificate shall be given by the Registrar to each of the parties.

9. Fees.—The Provincial Government shall prescribe the fees to be paid to the Registrar for the duties to be discharged by him under this Act, provided that the same shall not be on a scale higher than those prescribed under the Special Marriage Act, 1872 (III of 1872).

The Registrar may, if he thinks fit, demand payment of any such fee before performing any duty in respect of which it is payable.

The said Marriage Certificate Book shall at all reasonable times be open for inspection, and shall be admissible as evidence of the truth of the statements therein contained. Certified extracts therefrom shall on application be given by the Registrar on the payment to him by the applicant of a fee to be fixed by the Provincial Government for each such extract.

10. When marriage under the Act to be void.—Every person who, being at the time married, procures a marriage of himself performed under this Act, shall be deemed to have committed an offence under section 494 or section 495 of the Indian Penal Code (XLV of 1860), as the case may be, and the marriage so performed is void:

Provided that in cases where the validity of a marriage, where both parties are Hindus, is uncertain or has been disputed, the parties can, by fulfilling the conditions of this Act, get themselves married to each other under this Act, and the issue of the two, if any, born before this marriage shall be regarded as legitimate and of the caste of the father for purposes of this Act.

11. Penalties for marrying again.—Every person married in accordance with this Act who, during the lifetime of his or her wife or husband, contracts any other marriage, shall be subject to the penalties provided in sections 494 and 495 of the Indian Penal Code (XLV of 1860) for the offence of marrying again during the lifetime of a husband or wife.

12. Caste of the issue of marriage.—The issue of marriages performed under this Act shall, for the purposes of this Act, be deemed to be of the caste of their fathers.

13. Penalty for making false statements.—Every person making, signing or attesting any declaration or certificate prescribed by this Act, containing a statement, which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed guilty of the offence described in section 199 of the Indian Penal Code (XLV of 1860).

14. Saving of other rights.—Notwithstanding any customs or any interpretation of Hindu law to the contrary, Hindus married under this Act shall enjoy all the rights and be subject to all the obligations save and except those mentioned in the Act itself, that they would have enjoyed or been subjected to as the case may be, if this Act had not been passed.

FIRST SCHEDULE

(See section 4)

NOTICE OF MARRIAGE

To _____,
Registrar of Marriages under the Hindu Inter-caste Marriage Regulating and Validating Act, 19____, for the District.

I hereby give you notice that a marriage under the Hindu Inter-caste Marriage Regulating and Validating Act, 19____, is intended to be performed

8. I had completed my age of sixteen at the time of the marriage;

4. I had given notice of the intended marriage to the Registrar on (date);

5. I am not related to AB (the man) in any degree of consanguinity or affinity which would, according to the law to which I am subject or to which the said AB is subject, render a marriage between us illegal;

(And when the woman has not completed her age of twenty-one years.)

6. The consent of EF, my father (or guardian, as the case may be), had been given to the marriage between myself and AB and had not been revoked;

7. I am aware that, if any statement in this declaration is false, and if in making such statement I either know or believe it to be false, or do not believe it to be true, I am liable to imprisonment, and also to fine.

(Signed) OP, the father (or guardian) of

We certify that we were present at the time of the marriage of AB and CD on behalf of AB and that the said AB and CD have signed this document in our presence.

(Signed) GH.

(Signed) IJ.

We certify that we were present at the time of the marriage of AB and CD on behalf of CD and that the said AB and CD have signed this document in our presence.

(Signed) KL.

(Signed) MN.

The above CD not having completed twenty-one years of age at the time of the marriage had my consent to her marriage with AB.

(Signed) OP, the father (or guardian) of
the above-named CD.

(Countersigned) QR,

Registrar of Marriages under the Hindu
Inter-caste Marriage Regulating and
Validating Act, 19 . for the District of
19 .

Dated the day of 19 .

THIRD SCHEDULE

(See section 8)

REGISTRAR'S CERTIFICATE

I, QR, certify that on the day of 19 appeared before me AB by caste and CD by caste both being Hindus, each of whom in my presence and in the presence of two witnesses on behalf of each, whose names are signed hereunder, made the declarations required by the Hindu Inter-caste Marriage Regulating and Validating Act, 19 , to the effect that the marriage of AB and CD was solemnized in accordance with the religious rites and ceremonies of their families on day of 19 previous notice of which was given to me on day of 19 .

(The said CD not having completed twenty-one years of age on day of
19 the date of the marriage, the father or guardian of the
said CD has in my presence affixed his signature below consenting to the
marriage.)

(Signed) QR,
Registrar of Marriages under the Hindu
Inter-caste Marriage Regulating and
Validating Act, 19 , for the District of
19 .

(Signed) GH }
(Signed) IJ } on behalf of AB.
(Signed) KL }
(Signed) MN } on behalf of CD.

The above CD not having completed twenty-one years of age at the time
of the marriage had my consent to the marriage with AB.

(Signed) OP, the father (or guardian) of
the above-named CD.

Dated the day of 19 .

STATEMENT OF OBJECTS AND REASONS

Under the Hindu Law as interpreted, marriages between Hindus of different castes have been held illegal in many cases. This interpretation besides causing serious hardship in individual cases, has deterred many people from making proper marriage alliances. The progress of the community has also been retarded on account of marriages being confined within very small communities resulting in harmful inter-mixture of blood. The Bill seeks to be in the nature of a permissive measure giving freedom to persons wanting to marry outside their caste or sub-caste but desiring at the same time to solemnize the marriage in accordance with religious rites and ceremonies, having conscientious dejections to a mere civil marriage. The Bill also introduces some very necessary and desirable measures of social reform for those who want to avail themselves of the proposed measure inasmuch as it introduces registration, raises the age of marriage and also prohibits polygamy. In all other matters it keeps the rights and obligations of a Hindu intact. The Bill also enables such Hindus to take advantage of its provisions who though marrying within their own caste want, as a measure of precaution or reform, to get their marriage registered, raise the age of marriage, and avoid polygamy.

MOHAN LAL SAKSENA.

L. A. BILL No. 72 OF 1947.

A Bill to consolidate and amend the law regulating labour in factories.

WHEREAS it is expedient to consolidate and amend the law regulating labour in factories;

It is hereby enacted as follows:—

CHAPTER I

PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Act may be called the Factories Act, 1948.

(2) It extends to all the Provinces of India.

(3) It shall come into force on the 1st day of April 1948.

2. Interpretation.—In this Act, unless there is anything repugnant in the subject or context,—

- (a) "adult" means a person who has completed his eighteenth year;
- (b) "adolescent" means a person who has completed his fifteenth but has not completed his eighteenth year;
- (c) "child" means a person who has not completed his fifteenth year;
- (d) "young person" means a person who is either a child or an adolescent;
- (e) "day" means a period of twenty-four hours beginning at midnight;
- (f) "week" means a period of seven days beginning at midnight on Saturday night;
- (g) "power" means electrical energy, and any other form of energy which is mechanically transmitted and is not generated by human or animal agency;
- (h) "prime mover" means any engine, motor or other appliance which generates or otherwise provides power;
- (i) "transmission machinery" means any shaft, wheel, drum, pulley, system of pulleys, coupling, clutch, driving belt or other appliance or device by which the motion of a prime mover is transmitted to or received by any machinery or appliance;
- (j) "machinery" includes prime movers, transmission machinery and all other appliances whereby power is generated, transformed, transmitted or applied;
- (k) "manufacturing process" means any process for—
 - (i) making, altering, repairing, ornamenting, finishing, packing or otherwise treating any article or substance with a view to its use, sale, transport, delivery, or disposal, or
 - (ii) pumping oil, water or sewage, or
 - (iii) generating, transforming or transmitting power;
- (l) "worker" means a person employed, whether for wages or not, in any manufacturing process, or in cleaning any part of the machinery or premises used for a manufacturing process, or in any other kind of work whatsoever incidental to or connected with the manufacturing process, or the subject of the manufacturing process, but does not include any person solely employed in a clerical capacity in any room or place where no manufacturing process is being carried on;
- (m) "factory" means any premises including the precincts thereof—
 - (i) whereon ten or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on, or
 - (ii) whereon twenty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on,—but does not include a mine subject to the operation of the Indian Mines Act, 1923 (IV of 1923);
- (n) "occupier" of a factory means the person who has ultimate control over the affairs of the factory, and where the said affairs are entrusted to a managing agent, such agent shall be deemed to be the occupier of the factory;
- (o) "prescribed" means prescribed by rules made by the Provincial Government under this Act;

(p) where work of the same kind is carried out by two or more sets of workers working during different periods of the day, each of such sets is called a "relay" and the period or periods for which it works is called a "shift."

3. References to time of day.—In this Act references to time of day are references to Indian Standard Time, being five and a half hours ahead of Greenwich Mean Time:

Provided that for any area in which Indian Standard Time is not ordinarily observed the Provincial Government may make rules—

- (a) specifying the area;
- (b) defining the local mean time ordinarily observed therein;
- (c) permitting such time to be observed in all or any of the factories situated in the area.

4. Power to exempt change in factory.—Where the Provincial Government is satisfied that by reason of a change of occupier of a factory or in the manufacturing process carried on therein, the number of workers for the time being working in the factory is less than ten in a case where power is used or less than twenty in a case where power is not used, and is not likely to be ten or twenty, as the case may be, or more on any day during the ensuing twelve months, the Provincial Government may, by order in writing, exempt, save as is otherwise provided by or under section 86, such factory from the operation of this Act:

Provided that any exemption so made shall cease to have effect on and after any day on which ten or twenty, as the case may be, or more workers work in the factory, or in the latter case, on which power is used in the factory and ten or more workers work therein.

5. Power to declare departments to be separate factories.—The Provincial Government may, by order in writing, direct that different departments or branches of a specified factory shall be treated as separate factories for all or any of the purposes of this Act.

6. Power to exempt during public emergency.—In any case of public emergency the Provincial Government may, by notification in the official Gazette, exempt any factory from all or any of the provisions of this Act for such period and subject to such conditions as it may think fit.

7. Approval, licensing and registration of factories.—(1) The Provincial Government may make rules—

(a) requiring the previous permission in writing of the Provincial Government or the Chief Inspector to be obtained for the establishment or extension of any factory or class or description of factories;

(b) requiring for the purpose of considering applications for such permission the submission of plans and specifications;

(c) prescribing the nature of such plans and specifications and by whom they shall be certified;

(d) requiring the registration and licensing of factories or any class or description of factories, and prescribing the fees payable for such registration and licensing and for the renewal of licences.

(2) If on an application for permission referred to in clause (a) of sub-section (1) accompanied by the plans and specifications required by the rules made under clause (b) of that sub-section, sent to the Provincial Government or Chief Inspector by registered post, no order is communicated to the applicant within three months from the date on which it is so sent, the permission applied for in the said application shall be deemed to have been granted.

Explanation.—A factory shall not be deemed to be extended within the meaning of this section by reason only of the replacement of any plant or machinery, or within such limits as may be prescribed, of the addition of any plant or machinery.

8. Notice of manager and other particulars of factory.—(1) At least fifteen days before work is begun in any new factory, the occupier shall send to the Chief Inspector a written notice containing—

- (a) the name of the factory and its situation;
- (b) the address to which communications relating to the factory should be sent;
- (c) the nature of the manufacturing process to be carried on in the factory;
- (d) the nature and amount of the power to be used;
- (e) the name of the person who shall be the manager of the factory for the purposes of this Act;
- (f) the approximate number of workers to be employed in the factory;
- (g) such other particulars as may be prescribed.

(2) Whenever any other person is appointed as manager of a factory, the occupier shall send to the Chief Inspector a written notice within seven days from the date on which the new manager assumes charge.

(3) During any period for which no person has been designated as manager of a factory or during which the person designated does not manage the factory, any person found acting as manager, or if no such person is found, the occupier himself, shall be deemed to be the manager of the factory for all the purposes of this Act.

CHAPTER II

THE INSPECTING STAFF

9. Inspectors.—(1) The Provincial Government may, by notification in the official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Act within such local limits as it may assign to them respectively.

(2) The Provincial Government may, by notification as aforesaid, appoint any person to be a Chief Inspector, who shall in addition to the powers conferred on a Chief Inspector under this Act exercise the powers of an Inspector throughout the province.

(3) No person shall be appointed under sub-section (1), sub-section (2) or sub-section (5) or, having been so appointed, shall continue to hold office, who is or becomes directly or indirectly interested in a factory or in any process or business carried on therein or in any patent or machinery connected therewith.

(4) Every District Magistrate shall be an Inspector for his district.

(5) The Provincial Government may also, by notification as aforesaid, appoint such public officers as it thinks fit to be additional Inspectors for all or any of the purposes of this Act, within such local limits as it may assign to them respectively.

(6) In any area where there are more Inspectors than one, the Provincial Government may by notification as aforesaid declare the powers which such Inspectors shall respectively exercise and the Inspector to whom the prescribed notices are to be sent.

(7) Every Chief Inspector and Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code (XLV of 1860), and shall be officially subordinate to such authority as the Provincial Government may specify in this behalf.

10. Powers of Inspectors.—Subject to any rules made in this behalf, an Inspector may, within the local limits for which he is appointed,—

- (a) enter, with such assistants (if any), being persons in the service of the Crown or any local or other public authority, as he thinks fit, any place which is used, or which he has reason to believe is used, as a factory;
- (b) make such examination of the premises, plant and machinery, require the production of any prescribed registers, and take on the spot or otherwise such evidence of any persons as he may deem necessary for carrying out the purposes of this Act;
- (c) exercise such other powers as may be prescribed or as he may deem necessary for carrying out the purposes of this Act:

Provided that no person shall be required under this section to answer any question or give any evidence tending to incriminate himself.

11. Certifying surgeons.—(1) The Provincial Government may appoint such qualified medical practitioners as it thinks fit to be certifying surgeons for the purposes of this Act within such local limits as it may assign to them respectively.

(2) A certifying surgeon may, with the approval of the Provincial Government, authorise any qualified medical practitioner to exercise any of his powers under this Act for such period as the certifying surgeon may specify and subject to such conditions, if any, as the Provincial Government may think fit to impose, and references in this Act to a certifying surgeon shall be deemed to include references to any qualified medical practitioner when so authorised.

(3) No person shall be appointed to be, or authorised to exercise the powers of, a certifying surgeon, or having been so appointed or authorised, continue to exercise such powers, who is or becomes the occupier of a factory or is or becomes directly or indirectly interested therein or in any process or business carried on therein or in any patent or machinery connected therewith.

(4) The certifying surgeon shall carry out such duties as may be prescribed in connection with—

(a) the examination and certification of young persons under this Act;

(b) the examination of persons engaged in factories in such dangerous occupations or processes as may be prescribed;

(c) the exercising of such medical supervision as may be prescribed in any factory or class or description of factories where—

(i) cases of illness have occurred which it is reasonable to believe are due to the nature of the manufacturing process carried on, or other conditions of work prevailing, therein;

(ii) by reason of any change in the manufacturing process carried on or in the substances used therein or by reason of the adoption of any new manufacturing process or of any new substance for use in a manufacturing process, there is a likelihood of risk of injury to the health of workers employed in that manufacturing process;

(iii) young persons are, or are about to be, employed in any work which is likely to cause risk of injury to their health.

Explanation.—In this section “qualified medical practitioner” means a person holding a qualification granted by an authority specified in the Schedule to the Indian Medical Degrees Act, 1916 (VII of 1916), or in the Schedules to the Indian Medical Council Act, 1938 (XXVII of 1938).

CHAPTER III

HEALTH

12. Cleanliness.—(1) Every factory shall be kept clean and free from effluvia arising from any drain, privy or other nuisance, and in particular—

(a) accumulations of dirt and refuse shall be removed daily by an effective method from the floors and benches of workrooms and from staircases and passages, and disposed of in a suitable manner;

(b) the floor of every workroom shall be cleaned at least once in every week by washing, or if it is effective and suitable, by sweeping or some other method;

(c) where a floor is liable to become wet in the course of any manufacturing process to such extent as to be capable of being drained, effective means of drainage shall be provided and maintained;

(d) all inside walls and partitions, all ceilings or tops of rooms and all walls, sides and tops of passages and staircases shall—

(i) where they are painted or varnished, be repainted or revarnished at least once in every period of seven years;

(ii) where they are painted or varnished or where they have smooth impervious surfaces, be washed at least once in every period of fourteen months with hot water and soap or other suitable detergent or cleaned by some other method approved by the Chief Inspector;

(iii) in any other case, be kept whitewashed or colourwashed, and the whitewashing or colourwashing shall be carried out at least once in every period of fourteen months;

(e) the dates on which the processes required by clause (d) are carried out shall be entered in the prescribed register.

(2) The Provincial Government may by order exempt any factory or class or description of factories from any of the provisions of this section or specify alternative methods for keeping the factory in a clean state.

13. Disposal of wastes and effluents.—(1) Effective arrangements shall be made in every factory for the disposal of wastes and effluents due to the manufacturing process carried on therein.

(2) The Provincial Government may make rules requiring that the arrangements made in accordance with sub-section (1) shall be approved by such authority as may be prescribed.

14. Ventilation and temperature.—(1) Effective and suitable provision shall be made in every factory for securing and maintaining in every workroom—

(a) adequate ventilation by the circulation of fresh air, and

(b) such a temperature as will secure to workers therein reasonable conditions of comfort and prevent risk of injury to health;—
and in particular,—

(i) walls and roofs shall be of such material and designed so that such temperature shall not be exceeded, but kept as low as practicable;

(ii) where the nature of the work carried on in the factory involves, or is likely to involve, the production of excessively high temperatures, such adequate measures as are practicable shall be taken to protect the workers therefrom, by separating the process which produces such temperatures from the workroom, by insulating the hot parts or by other effective means.

(2) If it appears to the Provincial Government that in any factory or class or description of factories excessively high temperatures can be reduced by such methods as whitewashing, spraying or screening outside walls or roofs or windows, or by raising the level of the roof, or by insulating the roof either by an air-space and double roof or by the use of insulating roof materials, or by other methods, it may prescribe such of those methods as shall be adopted in the factory.

15. Dust and fume.—(1) In every factory in which, by reason of the manufacturing process carried on, there is given off any dust or fume or other impurity of such a nature and to such an extent as to be likely to be injurious or offensive to the workers employed therein, or any dust in substantial quantities, effective measures shall be taken to prevent its inhalation and its accumu-

lation in any workroom, and if any exhaust appliance is necessary for this purpose, it shall be applied as near as possible to the point of origin of the dust, fume or other impurity, and such point shall be enclosed so far as possible.

(2) In any factory no stationary internal combustion engine shall be operated unless the exhaust is conducted into the open air, and no other internal combustion engine shall be operated in any room unless effective measures have been taken to prevent such accumulation of fumes therefrom as are likely to be injurious to workers employed in the room.

16. Artificial humidification.—(1) In respect of all factories in which the humidity of the air is artificially increased, the Provincial Government may make rules,—

- (a) prescribing standards of humidification;
- (b) regulating the methods used for artificially increasing the humidity of the air;
- (c) directing prescribed tests for determining the humidity of the air to be correctly carried out and recorded;
- (d) prescribing methods to be adopted for securing adequate ventilation and cooling of the air in the workrooms.

(2) In any factory in which the humidity of the air is artificially increased, the water used for the purpose shall be taken from a public supply, or other source, of drinking water, or shall be effectively purified before it is so used.

(3) If it appears to an Inspector that the water used in a factory for increasing humidity which is required to be effectively purified under sub-section (2) is not effectively purified, he may serve on the manager of the factory an order in writing, specifying the measures which in his opinion should be adopted, and requiring them to be carried out before a specified date.

17. Overcrowding.—(1) No room in any factory shall be overcrowded to an extent injurious to the health of the workers employed therein.

(2) Without prejudice to the generality of sub-section (1), there shall be in every workroom of a factory at least 350 cubic feet (or such other volume as may be prescribed for any factory or class or description of factories) of space for every worker employed therein, and for the purposes of this sub-section no account shall be taken of any space which is more than fourteen feet above the level of the floor of the room.

(3) If the Chief Inspector by order in writing so requires, there shall be posted in each workroom of a factory a notice specifying the maximum number of workers who may, in compliance with the provisions of this section, be employed in the room.

(4) The Chief Inspector may by order in writing exempt, subject to such conditions, if any, as he may think fit to impose, any workroom from the provisions of this section, if he is satisfied that compliance therewith in respect of the room is unnecessary in the interests of the health of the workers employed therein.

18. Lighting.—(1) In every part of a factory in which workers are working or passing there shall be provided and maintained sufficient and suitable natural or artificial lighting.

(2) In every factory all glazed windows and skylights used for the lighting of the workrooms shall be kept clean on both the inner and outer surfaces and, so far as compliance with the provisions of any rules made under sub-section (2) of section 14 will allow, free from obstruction.

(3) In every factory effective provision shall, so far as is practicable, be made for the prevention of—

- (a) glare, either directly from a source of light or by reflection from a smooth or polished surface;

(b) the formation of shadows to such an extent as to cause eyestrain or the risk of accident to any worker.

(4) The Provincial Government may prescribe standards of sufficient and suitable lighting for factories or for any class or description of factories or for any manufacturing process.

19. Drinking water.—(1) In every factory effective arrangements shall be made to provide and maintain at suitable points conveniently situated for all workers employed therein a sufficient supply of wholesome drinking water.

(2) All such points shall be legibly marked "drinking water" in a language understood by a majority of the workers employed in the factory, and no such point shall be situated within twenty feet of any washing place, urinal or latrine.

(3) In every factory wherein more than two hundred and fifty workers are ordinarily employed and power is used, methods of cooling drinking water during hot weather by refrigeration or other effective means shall be provided and in respect of other factories the Provincial Government may make rules requiring such methods to be adopted.

(4) In respect of all factories or any class or description of factories the Provincial Government may make rules for securing compliance with the provisions of this section and for the examination by prescribed authorities of the supply of drinking water in factories.

20. Latrines and urinals.—(1) In every factory—

(a) sufficient latrine and urinal accommodation of prescribed types shall be provided;

(b) separate accommodation shall be provided for male and female workers;

(c) such accommodation shall be adequately lighted and ventilated, and no latrine or urinal shall communicate with any workroom except through the open air or an intervening ventilated passage;

(d) all such accommodation shall be maintained in a clean and sanitary condition at all times;

(e) sweepers shall be employed whose primary duty it is to keep clean latrines, urinals and washing places.

(2) In every factory wherein more than two hundred and fifty workers are ordinarily employed—

(a) all latrine and urinal accommodation shall be of prescribed sanitary types;

(b) the floors and internal walls, up to a height of three feet of the latrines and urinals and the sanitary blocks shall be laid in glazed tiles or otherwise finished to provide a smooth polished impervious surface;

(c) without prejudice to the provisions of clauses (d) and (e) of subsection (1), the floors, portions of the walls and blocks so laid or finished and the sanitary pans of latrines and urinals shall be thoroughly washed and cleaned at least once in every seven days with suitable detergents.

(3) The Provincial Government may by rules prescribe the number of latrines and urinals to be provided in any factory in proportion to the numbers of male and female workers ordinarily employed therein, and provide for such further matters in respect of sanitation in factories as it considers necessary in the interest of the health of the workers employed therein.

21. Spittoons.—In every factory there shall be provided a sufficient number of spittoons in convenient places and they shall be maintained in a clean and hygienic condition.

CHAPTER IV

SAFETY

22. Fencing of machinery.—(1) In every factory the following—

(i) every moving part of a prime mover and every flywheel connected to a prime mover, whether the prime mover or flywheel is in the engine house or not;

(ii) the headrace and tailrace of every water-wheel and water turbine;

(iii) any part of a stock-bar which projects beyond the head-stock of a lathe;

and, unless they are in such position or of such construction as to be safe to every person employed in the factory as they would be if they were securely fenced, the following—

(a) every part of electric generators, motors and rotary converters;

(b) every part of transmission machinery;

(c) every dangerous part of any other machinery,

shall be securely fenced by safeguards of substantial construction and kept in position while the parts of machinery they are fencing are in motion or in use:

Provided that for the purpose of determining whether any part of machinery is in such position or is of such construction as to be safe as aforesaid, account shall not be taken of any occasion when, it being necessary to make an examination of the machinery while it is in motion or, as a result of such examination, to carry out any mounting or shipping of belts, lubrication or other adjusting operation while the machinery is in motion, such examination or operation is made or carried out in accordance with the provisions of section 28.

(2) The Provincial Government may by rules prescribe such further precautions as it may consider necessary in respect of any particular machinery or part thereof, or exempt, subject to such conditions, if any, as may be prescribed, for securing the safety of the workers, any particular machinery or part thereof from the provisions of this section.

23. Work on or near machinery in motion.—(1) Where in any factory it becomes necessary to examine any part of machinery referred to in section 22 while the machinery is in motion, or as a result of such examination, to carry out any mounting or shipping of belts, lubrication or other adjusting operation while the machinery is in motion such examination or operation shall be made or carried out only by a specially trained adult male worker wearing tight fitting clothing whose name has been recorded in the register prescribed in this behalf and while he is so engaged,—

(a) such worker shall not handle a belt at a moving pulley unless the belt is less than six inches in width and unless the belt-joint is either laced or flush with the belt;

(b) without prejudice to any other provision of this Act relating to the fencing of machinery, every set screw, bolt and key on any revolving shaft, spindle, wheel or pinion, and all spur, worm and other toothed or friction gearing in motion with which such worker would otherwise be liable to come into contact, shall be securely fenced to prevent such contact.

(2) No woman or child shall be allowed in any factory to clean, lubricate or adjust any part of the machinery while that part is in motion under power, or to work between moving parts, or between fixed and moving parts, of any machinery which is in motion under power.

(3) The Provincial Government may, by notification in the official Gazette prohibit, in any specified factory or class or description of factories, the cleaning, lubricating or adjusting by any person of specified parts of machinery when those parts are in motion under power.

24. Striking gear and devices for cutting off power.—(1) In every factory—

(a) suitable striking gear or other efficient mechanical appliance shall be provided and maintained and used to move driving belts to and from fast and loose pulleys which form part of the transmission machinery, and such gear or appliances shall be so constructed, placed and maintained as to prevent the belt from creeping back on to the fast pulley;

(b) driving belts when not in use shall not be allowed to rest or ride upon shafting in motion.

(2) In every factory suitable devices for cutting off power in emergencies from running machinery shall be provided and maintained in every work-room:

Provided that in respect of factories in operation before the commencement of this Act, the provisions of this sub-section shall apply only to work-rooms in which electricity is used as power.

25. Self-acting machines.—No traversing part of a self-acting machine in any factory and no material carried thereon shall, if the space over which it runs is a space over which any person is liable to pass whether in the course of his employment or otherwise, be allowed to run on its outward or inward traverse within a distance of eighteen inches from any fixed structure which is not part of the machine:

Provided that the Chief Inspector may permit the continued use of a machine installed before the commencement of this Act which does not comply with the requirements of this section on such conditions for ensuring safety as he may think fit to impose.

26. Casing of new machinery.—(1) In all machinery driven by power and installed in any factory after the commencement of this Act,—

(a) every revolving shaft, wheel and pinion and every set screw, bolt or key on any revolving shaft or part shall be effectively guarded or so sunk or encased as to prevent danger;

(b) all spur, worm and other toothed or friction gearing which does not require frequent adjustment while in motion shall be completely encased, unless it is so situated as to be as safe as it would be if it were completely encased.

(2) Whoever sells or lets on hire or, as agent of a seller or hirer, causes or procures to be sold or let on hire, for use in a factory any machinery driven by power which does not comply with the provisions of sub-section (1), shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

(3) The Provincial Government may make rules applying the provisions of this section to any particular machine or class or description of machines and specifying the types of safeguards to be provided thereon.

27. Prohibition of employment of women and children near cotton-openers.—No woman or child shall be employed in any part of a factory for pressing cotton in which a cotton-opener is at work:

Provided that if the feed-end of a cotton-opener is in a room separated from the delivery end by a partition extending to the roof or to such height as the Inspector may in any particular case specify in writing, women and children may be employed on the side of the partition where the feed-end is situated.

28. Hoists and lifts.—(1) In every factory—

(a) every hoist and lift shall be—

(i) of good mechanical construction, sound material and adequate strength;

(ii) properly maintained, and shall be thoroughly examined by a competent person at least once in every period of six months, and a

register shall be kept containing the prescribed particulars of every such examination;

(b) every hoistway and liftway shall be efficiently protected by an enclosure fitted with gates, and the hoist or lift and every such enclosure shall be so constructed as to prevent any person or thing from being trapped between any part of the hoist or lift and any fixed structure or moving part;

(c) the maximum safe working load shall be plainly marked on every hoist or lift, and no load greater than such load shall be carried thereon;

(d) the cage of every hoist or lift used for carrying persons shall be fitted with a gate on each side from which access is afforded to a landing;

(e) every gate referred to in clause (b) or clause (d) shall be fitted with interlocking or other efficient device to secure that the gate cannot be opened except when the cage is at the landing and that the cage cannot be moved unless the gate is closed.

(2) The following additional requirements shall apply to hoists and lifts used for carrying persons and installed or reconstructed in a factory after the commencement of this Act, namely:—

(a) where the cage is supported by rope or chain, there shall be at least two ropes or chains separately connected with the cage and balance weight, and each rope or chain with its attachments shall be capable of carrying the whole weight of the cage together with its maximum load;

(b) sufficient devices shall be provided and maintained capable of supporting the cage together with its maximum load in the event of breakage of the ropes, chains or attachments;

(c) an efficient automatic device shall be provided and maintained to prevent the cage from over-running.

(3) The Chief Inspector may permit the continued use of a hoist or lift installed in a factory before the commencement of this Act which does not fully comply with the provisions of sub-section (1) and upon such conditions for ensuring safety as he may think fit to impose.

(4) The Provincial Government may, if in respect of any class or description of hoist or lift it is of opinion that it would be unreasonable to enforce any requirement of this section, by order direct that such requirement shall not apply to such class or description of hoist or lift.

29. Cranes and other lifting machinery.—(1) The following provisions shall apply in respect of cranes and all other lifting machinery (other than hoists and lifts) in any factory, namely:—

(a) every part thereof, including the working gear, whether fixed or movable, ropes and chains and anchoring and fixing appliances shall be—

(i) of good construction, sound material and adequate strength;

(ii) properly maintained, and shall be thoroughly examined by a competent person at least once in every period of twelve months, and a register shall be kept containing the prescribed particulars of every such examination;

(b) no such machinery shall be loaded beyond the safe working load which shall be plainly inscribed thereon;

(c) while any person is employed or working on or near the wheel-track of a travelling crane in any place where he would be liable to be struck by the crane, effective measures shall be taken to ensure that the crane does not approach within twenty feet of that place.

(2) The Provincial Government may make rules in respect of any lifting machinery or class or description of lifting machinery in factories—

(a) prescribing requirements to be complied with in addition to those set out in this section;

(b) exempting from compliance with all or any of the requirements of this section, where in its opinion such compliance is unnecessary or impracticable.

30. Revolving machinery.—(1) In every room in a factory in which the process of grinding is carried on there shall be permanently affixed to or placed near each machine in use a notice indicating the maximum safe working peripheral speed of every grindstone or abrasive wheel, the speed of the shaft or spindle upon which the wheel is mounted, and the diameter of the pulley upon such shaft or spindle necessary to secure such safe working peripheral speed.

(2) The speeds indicated in notices under sub-section (1) shall not be exceeded.

(3) Effective measures shall be taken in every factory to ensure that the safe working peripheral speed of every revolving vessel, cage, basket, flywheel, pulley, disc or similar appliance driven by power is not exceeded.

31. Pressure plant.—(1) If in any factory any part of the plant or machinery used in a manufacturing process is operated at a pressure above atmospheric pressure, effective measures shall be taken to ensure that the safe working pressure of such part is not exceeded.

(2) The Provincial Government may make rules providing for the examination and testing of any plant or machinery such as is referred to in sub-section (1) and prescribing such other safety measures in relation thereto as may in its opinion be necessary in any factory or class or description of factories.

32. Floors, stairs, and means of access.—In every factory—

(a) all floors, steps, stairs, passages and gangways shall be of sound construction and properly maintained, and where it is necessary to ensure safety, steps, stairs, passages and gangways shall be provided with substantial handrails;

(b) there shall, so far as is reasonably practicable, be provided and maintained safe means of access to every place at which any person is at any time required to work.

33. Pits, sumps, openings in floors, etc.—In every factory every fixed vessel, sump, tank, pit or opening in the ground or in a floor which, by reason of its depth, situation, construction or contents, is or may be a source of danger, shall be either securely covered or securely fenced.

34. Excessive weights.—(1) No person shall be employed in any factory to lift, carry or move any load so heavy as to be likely to cause him injury.

(2) The Provincial Government may make rules prescribing the maximum weights which may be lifted, carried or moved by adult men, adult women, adolescents and children employed in factories or in any class or description of factories or in carrying on any specified process.

35. Protection of eyes.—In respect of any such manufacturing process carried on in any factory as may be prescribed, being a process which involves—

(a) special risk of injury to the eyes from particles or fragments thrown off in the course of the process, or

(b) risk to the eyes by reason of exposure to excessive light,—

the Provincial Government may by rules require that effective screens or suitable goggles shall be provided for the protection of persons employed on, or in the immediate vicinity of, the process.

36. Precautions against dangerous fumes.—(1) In any factory no person shall enter or be permitted to enter any chamber, tank, vat, pit, pipe, flue or other confined space in which dangerous fumes are likely to be present to such an extent as to involve risk of persons being overcome thereby, unless it is provided with a manhole of adequate size or other effective means of egress.

(2) No portable electric light of voltage exceeding twenty-four volts shall be permitted in any factory for use inside any confined space such as is referred to in sub-section (1), and where the fumes present are likely to be inflammable, no lamp or light other than of flame-proof construction shall be permitted to be used in such confined space.

(3) No person in any factory shall enter or be permitted to enter any confined space such as is referred to in sub-section (1) until all practicable measures have been taken to remove any fumes which may be present and to prevent any ingress of fumes and unless either—

(a) a certificate in writing has been given by a competent person, based on a test carried out by himself, that the space is free from dangerous fumes and fit for persons to enter, or

(b) the worker is wearing suitable breathing apparatus and a belt securely attached to a rope, the free end of which is held by a person standing outside the confined space.

(4) Suitable breathing apparatus, reviving apparatus and belts and ropes shall in every factory be kept ready for instant use beside any such confined space as aforesaid which any person has entered, and all such apparatus shall be periodically examined and certified by a competent person to be fit for use; and a sufficient number of persons employed in every factory shall be trained and practised in the use of all such apparatus and in the method of restoring respiration.

(5) No person shall be permitted to enter in any factory any boiler furnace, boiler flue, chamber tank, vat, pipe or other confined space for the purpose of working or making any examination therein until it has been sufficiently cooled by ventilation or otherwise to be safe for persons to enter.

(6) The Provincial Government may make rules prescribing the minimum dimensions of the manholes referred to in sub-section (1), and may by order in writing exempt, subject to such conditions as it may think fit to impose, any factory or class or description of factories from compliance with any of the provisions of this section.

37. Explosive or inflammable dust, gas, etc.—(1) Where in any factory any manufacturing process produces dust, gas, fume or vapour of such character and to such extent as to be likely to explode on ignition, all practicable measures shall be taken to prevent any such explosion by—

(a) effective enclosure of the plant or machinery used in the process;

(b) removal or prevention of the accumulation of such dust, gas, fume or vapour;

(c) exclusion or effective enclosure of all possible sources of ignition.

(2) Where in any factory the plant or machinery used in a process such as is referred to in sub-section (1) is not so constructed as to withstand the probable pressure which such an explosion as aforesaid would produce, all practicable measures shall be taken to restrict the spread and effects of the explosion by the provision in the plant or machinery of chokes, baffles, vents or other effective appliances.

(3) Where any part of the plant or machinery in a factory contains any explosive or inflammable gas or vapour under pressure greater than atmospheric pressure, that part shall not be opened except in accordance with the following provisions, namely:—

(a) before the fastening of any joint of any pipe connected with the part or the fastening of the cover of any opening into the part is loosened, any flow of the gas or vapour into the part or any such pipe shall be effectively stopped by a stop-valve or other means;

(b) before any such fastening as aforesaid is removed, all practicable measures shall be taken to reduce the pressure of the gas or vapour in the part or pipe to atmospheric pressure;

(c) where any such fastening as aforesaid has been loosened or removed, effective measures shall be taken to prevent any explosive or inflammable gas or vapour from entering the part or pipe until the fastening has been secured, or, as the case may be, securely replaced:

Provided that the provisions of this sub-section shall not apply in the case of plant or machinery installed in the open air.

(4) No plant, tank or vessel which contains or has contained any explosive or inflammable substance shall be subjected in any factory to any welding, brazing, soldering or cutting operation which involves the application of heat, unless adequate measures have first been taken to remove such substance and any fumes arising therefrom or to render such substance and fumes non-explosive or non-inflammable, and no such substance shall be allowed to enter such plant, tank or vessel after any such operation until the metal has cooled sufficiently to prevent any risk of igniting the substance.

(5) The Provincial Government may by rules exempt, subject to such conditions as may be prescribed, any factory or class or description of factories from compliance with all or any of the provisions of this section.

38. Precautions in case of fire.—(1) Every factory shall be provided with such means of escape in case of fire as may be prescribed, and if it appears to the Inspector that any factory is not so provided, he may serve on the manager of the factory an order in writing specifying the measures which, in his opinion, should be adopted to bring the factory into conformity with the provisions of this section and any rules made thereunder, and requiring them to be carried out before a date specified in the order.

(2) In every factory the doors affording exit from any room shall not be locked or fastened so that they cannot be easily and immediately opened from the inside while any person is within the room, and all such doors, unless they are of the sliding type, shall be constructed to open outwards.

(3) In every factory, every window, door or other exit affording a means of escape in case of fire, other than the means of exit in ordinary use, shall be distinctively marked in a language understood by the majority of the workers and in red letters of adequate size or by some other effective and clearly understood sign.

(4) There shall be provided in every factory effective and clearly audible means of giving warning in case of fire to every person employed in the factory.

(5) A free passage-way giving access to each means of escape in case of fire shall be maintained for the use of all workers in every room of a factory.

(6) Effective measures shall be taken to ensure that in every factory—

(a) wherein more than twenty workers are ordinarily employed in any place above the ground floor, or

(b) wherein explosive or highly inflammable materials are used or stored,—

all the workers are familiar with the means of escape in case of fire and have been adequately trained in the routine to be followed in such case.

(7) The Provincial Government may make rules prescribing, in respect of any factory or class or description of factories, the means of escape to be provided in case of fire and the nature and amount of fire-fighting apparatus to be provided and maintained.

39. Power to require specifications of defective parts or tests of stability.—If it appears to the Inspector that any building or part of a building or any part of the ways, machinery or plant in a factory is in such a condition that

it may be dangerous to human life or safety, he may serve on the manager of the factory an order in writing requiring him before a specified date—

(a) to furnish such drawings, specifications and other particulars as may be necessary to determine whether such building, ways, machinery or plant can be used with safety, or

(b) to carry out such tests as may be necessary to determine the strength or quality of any specified parts, and to inform the Inspector of the results thereof.

40. Safety of buildings and machinery.—(1) If it appears to the Inspector that any building or part of a building or any part of the ways, machinery or plant in a factory is in such a condition that it is dangerous to human life or safety, he may serve on the manager of the factory an order in writing specifying the measures which in his opinion should be adopted, and requiring them to be carried out before a specified date.

(2) If it appears to the Inspector that the use of any building or part of a building or any part of the ways, machinery or plant in a factory involves imminent danger to human life or safety, he may serve on the manager of the factory an order in writing prohibiting its use until it has been properly repaired or altered.

41. Power to make rules to supplement this Chapter.—The Provincial Government may make rules—

(a) requiring the provision in any factory or in any class or description of factories of such further devices for securing the safety of persons employed therein as it may deem necessary;

(b) providing for any other matter which may be expedient in order to give effect to the provisions of this Chapter.

CHAPTER V

WELFARE

42. Washing facilities.—(1) In every factory—

(a) adequate and suitable facilities for washing shall be provided and maintained for the use of the workers therein;

(b) separate and adequately screened facilities shall be provided for the use of male and female workers;

(c) such facilities shall be conveniently accessible and shall be kept clean.

(2) The Provincial Government may, in respect of any factory or class or description of factories or of any manufacturing process, prescribe standards of adequate and suitable facilities for washing.

43. Facilities for storing and drying clothing.—The Provincial Government may, in respect of any factory or class or description of factories, make rules requiring the provision therein of suitable places for keeping clothing not worn during working hours and for the drying of wet clothing.

44. Facilities for sitting.—(1) In every factory suitable arrangements for sitting shall be provided and maintained for all workers obliged to work in a standing position, in order that they may take advantage of any opportunities for rest which may occur during the course of their work.

(2) If, in the opinion of the Chief Inspector, the workers in any factory engaged in a particular manufacturing process or working in a particular room are able to do their work efficiently in a sitting position, he may, by order in writing, require the occupier of the factory to provide before a specified date such seating arrangements as may be practicable for all workers so engaged or working.

(3) The Provincial Government may, by notification in the official Gazette, declare that the provisions of sub-section (1) shall not apply to any specified factory or class or description of factories or to any specified manufacturing process.

45. First-aid appliances.—(1) There shall in every factory be provided and maintained so as to be readily accessible during all working hours first-aid boxes or cupboards equipped with the prescribed contents, and the number of such boxes or cupboards to be provided and maintained shall not be less than one for every one hundred and fifty workers ordinarily employed in the factory.

(2) Nothing except the prescribed contents shall be kept in the boxes and cupboards referred to in sub-section (1), and all such boxes and cupboards shall be kept under the charge of a responsible person who is trained in first-aid treatment and who shall always be available during the working hours of the factory.

(3) In every factory wherein more than one thousand workers are ordinarily employed there shall be provided and maintained an ambulance room or dispensary of the prescribed size, containing the prescribed equipment and in the charge of such medical and nursing supervisory staff as may be prescribed.

46. Canteens.—(1) The Provincial Government may make rules requiring that in any specified factory wherein more than two hundred and fifty workers are ordinarily employed, an adequate canteen shall be provided and maintained for the use of the workers.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the date by which such canteen shall be provided;

(b) the standards in respect of construction, accommodation, furniture and other equipment of the canteen;

(c) the foodstuffs to be served therein and the charges which may be made therefor;

(d) representation of the workmen in the management of the canteen;

(e) enabling, subject to such conditions, if any, as may be prescribed, the power to make rules under clause (c) to be exercised also by the Chief Inspector.

47. Shelters and rest rooms.—(1) In every factory wherein more than one hundred and fifty workers are ordinarily employed, adequate and suitable shelters or rest rooms shall be provided and maintained for the use of the workers:

Provided that any canteen maintained in accordance with the provisions of section 46 shall be regarded as part of the accommodation required by this section.

(2) The shelters or rooms required to be provided by sub-section (1) shall be sufficiently lighted and ventilated and shall be maintained in a cool and clean condition.

(3) The Provincial Government may—

(a) prescribe the standards in respect of construction, accommodation, furniture and other equipment of shelters and rest rooms to be provided under this section;

(b) by notification in the official Gazette exempt any factory or class or description of factories from the requirements of this section.

48. Crèches.—(1) In every factory wherein the number of women workers ordinarily employed there shall be provided and maintained a suitable room or rooms for the use of children under the age of six years belonging to such women.

(2) Such rooms shall provide adequate accommodation, shall be adequately lighted and ventilated, shall be maintained in a clean and sanitary condition and shall be under the charge of women trained in the care of children and infants.

(3) The Provincial Government may make rules—

(a) prescribing the location and the standards in respect of construction, accommodation, furniture and other equipment of rooms to be provided under this section;

(b) requiring the provision in factories to which this section applies of additional facilities for the care of children belonging to women workers, including suitable provision of facilities for washing and changing their clothing;

(c) requiring the provision in any factory of free milk for such children;

(d) requiring that facilities shall be given in any factory for the mothers of such children to feed them at the necessary intervals.

49. Welfare officers.—(1) If in respect of any factory wherein more than five hundred workers are ordinarily employed, the Chief Inspector by order in writing served on the occupier of the factory so directs, there shall be employed in the factory such number of officers as may be specified in the order, charged with the duty of supervising the welfare of the workers employed in the factory.

(2) The Provincial Government may by rules prescribe the duties, qualifications and conditions of service of officers employed in accordance with an order under sub-section (1):

Provided that in prescribing the conditions of service of such officers regard shall be had to the conditions of service of other officers employed in a supervisory capacity in the factory.

50. Power to make rules to supplement this Chapter.—The Provincial Government may make rules—

(a) exempting, subject to compliance with such alternative arrangements for the welfare of workers as may be prescribed, any factory or class or description of factories from compliance with any of the provisions of this Chapter;

(b) requiring in any factory or class or description of factories that representatives of the workers employed in the factory shall be associated in the management of arrangements for the welfare of the workers;

(c) providing for any other matter which may be expedient in order to give effect to the provisions of this Chapter.

CHAPTER VI

WORKING HOURS OF ADULTS

51. Weekly hours.—No adult worker shall be employed in a factory for more than forty-eight hours in any week:

Provided that an adult male worker in a factory who is engaged in work which for technical reasons must be continuous throughout the day may be employed for fifty-six hours in a week.

52. Weekly holidays.—(1) No adult worker shall be employed in a factory on a Sunday unless—

(a) he has had or will have a holiday for a whole day on one of the three days immediately before or after that Sunday, and

(b) the manager of the factory has, before that Sunday or the substituted day, whichever is earlier,—

(i) delivered a notice to the office of the Inspector of his intention to require the worker to work on the Sunday and of the day which is to be substituted, and

(ii) displayed a notice to that effect in the factory:

Provided that no substitution shall be made which will result in any worker working for more than ten days consecutively without a holiday for a whole day.

(2) Notices given under sub-section (1) may be cancelled by a notice delivered to the office of the Inspector and a notice displayed in the factory not later than the day before the Sunday or the holiday to be cancelled, whichever is earlier.

(3) Where, in accordance with the provisions of sub-section (1), any worker works on a Sunday and has had a holiday on one of the three days immediately before it, that Sunday shall, for the purpose of calculating his weekly hours of work, be included in the preceding week.

53. Compensatory holidays.—(1) Where, as a result of the passing of an order or the making of a rule under the provisions of this Act exempting a factory or the workers therein from the provisions of section 52, a worker is deprived of any of the weekly holidays for which provision is made in sub-section (1) of that section, he shall be allowed, within the month in which the holidays were due to him or within the two months immediately following that month, compensatory holidays of equal number to the holidays so lost.

(2) The Provincial Government may make rules prescribing the manner in which the holidays for which provision is made in sub-section (1) shall be allowed.

54. Daily hours.—No adult worker shall be employed in a factory for more than nine hours in any day.

55. Intervals for rest.—The periods of work of adult workers in a factory during each day shall be so fixed that no period shall exceed five hours and so that no worker shall work—

(a) for more than five hours before he has had an interval for rest of at least half an hour or such longer duration, not exceeding one hour, as may, in respect of any particular factory or class or description of factories or in respect of any particular manufacturing process, be prescribed, or

(b) for more than eight hours before he has had at least two such intervals.

56. Spreadover.—Save with the permission of the Provincial Government and subject to such conditions as it may impose, either generally or in the case of any particular factory, the periods of work of an adult worker in a factory shall be so arranged that along with his intervals for rest under section 55, they shall not spread over more than ten and a half hours in any day.

57. Night shifts.—Where a worker in a factory works on a shift which extends beyond midnight,—

(a) for the purposes of sections 52 and 53 a holiday for a whole day shall mean in his case a period of twenty-four consecutive hours beginning when his shift ends;

(b) the following day for him shall be deemed to be the period of twenty-four hours beginning when such shift ends, and the hours he has worked after midnight shall be counted in the previous day:

Provided that the Provincial Government may, by order in writing, direct that in the case of any specified factory or of any specified class of workers in a factory the following day shall be deemed to be the period of twenty-four hours beginning when such shift begins and that the hours worked before midnight shall be counted in the following day.

58. Prohibition of overlapping shifts.—(1) Work shall not be carried on in any factory by means of a system of shifts so arranged that more than one relay of workers is engaged in work of the same kind at the same time.

(2) The Provincial Government may make rules exempting, subject to such conditions as may be prescribed, any factory or class or description of factories from the provisions of sub-section (1).

59. Extra pay for overtime.—(1) Where a worker works in a factory for more than nine hours in any day or for more than forty-eight hours in any week, he shall be entitled in respect of the overtime worked to pay at the rate of twice his ordinary rate of pay.

(2) Where any workers in a factory are paid on a piece rate basis, the Provincial Government, in consultation with the industry concerned, may, for the purposes of this section, fix time rates as nearly as possible equivalent to the average rate of earnings of those workers, and the rates so fixed shall be deemed to be the ordinary rates of pay of those workers for the purposes of this section.

(3) For the purposes of this section, ordinary rate of pay includes basic pay and such allowances as the worker is for the time being entitled to, but does not include a bonus.

(4) The Provincial Government may prescribe the registers that shall be maintained in a factory for the purpose of securing compliance with the provisions of this section.

60. Restriction on double employment.—No adult worker shall be employed in any factory on any day on which he has already been working in any other factory, save in such circumstances as may be prescribed.

61. Notice of periods for work for adults.—(1) There shall be displayed and correctly maintained in every factory in accordance with the provisions of sub-section (2) of section 109 a Notice of Periods for Work for Adults, showing clearly the periods within which adult workers may be required to work.

(2) The periods shown in the notice required by sub-section (1) shall be fixed beforehand in accordance with the following provisions of this section, and shall be such that workers working for those periods would not be working in contravention of any of the provisions of sections 51, 52, 54, 55 and 56.

(3) Where all the adult workers in a factory are required to work within the same periods, the manager of the factory shall fix those periods for such workers generally.

(4) Where all the adult workers in a factory are not required to work within the same periods, the manager of the factory shall classify them into groups according to the nature of their work.

(5) For each group which is not required to work on a system of shifts, the manager of the factory shall fix the periods within which the group may be required to work.

(6) Where any group is required to work on a system of shifts and the relays are not to be subject to predetermined periodical changes of shifts, the manager of the factory shall fix the periods within which each relay of the group may be required to work.

(7) Where any group is to work on a system of shifts and the relays are to be subject to predetermined periodical changes of shifts, the manager of the factory shall draw up a scheme of shifts whereunder the periods within which any

relay of the group may be required to work and the relay which will be working at any time of the day shall be known for any day.

(8) The Provincial Government may prescribe forms for the notice required by sub-section (1) and the manner in which it shall be maintained.

(9) In the case of a factory beginning work after the commencement of this Act, a copy of the notice referred to in sub-section (1) shall be sent in duplicate to the Inspector before the day on which work is begun in the factory.

(10) Any proposed change in the system of work in any factory which will necessitate a change in the notice referred to in sub-section (1) or in sub-section (1) of section 39 of the Factories Act, 1934 (XXV of 1934), shall be notified to the Inspector in duplicate before the change is made, and except with the previous sanction of the Inspector, no such change shall be made until one week has elapsed since the last change.

62. Register of Adult Workers.—(1) The manager of every factory shall maintain a Register of Adult Workers, to be available to the Inspector at all times during working hours, showing—

- (a) the name of each adult worker in the factory;
- (b) the nature of his work;
- (c) the group, if any, in which he is included;
- (d) where his group works on shifts, the relay to which he is allotted;
- (e) such other particulars as may be prescribed:

Provided that, if the Inspector is of opinion that any muster roll or register maintained as part of the routine of a factory gives in respect of any or all the workers in the factory the particulars required under this section, he may, by order in writing, direct that such muster roll or register shall to the corresponding extent be maintained in place of, and be treated as, the Register of Adult Workers in that factory:

Provided further that where the Provincial Government is satisfied that the conditions of work in any factory or class or description of factories are such that there is no appreciable risk of violation of the provisions of this Chapter in the case of that factory or factories of that class or description, the Provincial Government may, by written order, exempt, on such conditions as it may impose, that factory or all factories of that class or description, as the case may be, from the provisions of this section.

(2) The Provincial Government may prescribe the form of the Register of Adult Workers, the manner in which it shall be maintained and the period for which it shall be preserved.

63. Hours of work to be entered with Notice.—(1) The Inspector under section 62:—No adult worker shall be employed in any factory otherwise than in accordance with the Notice of Periods for Work of Adults displayed in the factory and the entries made beforehand against his name in the Register of Adult Workers of the factory.

64. Power to make exempting rules.—(1) The Provincial Government may make rules defining the persons who hold positions of supervision or management or are employed in a confidential position in a factory, and the provisions of this Chapter, other than the provisions of clause (b) of sub-section (1) of section 66 and of the proviso to that sub-section, shall not apply to any person so defined.

(2) The Provincial Government may make rules in respect of adult workers in factories providing for the exemption, to such extent and subject to such conditions as may be prescribed:—

- (a) of workers engaged on urgent repairs, from the provisions of sections 51, 52, 54, 55, and 56;

(b) of workers engaged in work in the nature of preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the factory, from the provisions of sections 54, 55 and 56;

(c) of workers engaged in work which is necessarily so intermittent that the intervals during which they do not work while on duty ordinarily amount to more than the intervals for rest required by or under section 55, from the provisions of sections 54, 55 and 56;

(d) of workers engaged in any work which for technical reasons must be carried on continuously throughout the day, from the provisions of sections 51, 52, 54, 55 and 56;

(e) of workers engaged in making or supplying articles of prime necessity which must be made or supplied every day, from the provisions of section 52;

(f) of workers engaged in a manufacturing process which cannot be carried on except during fixed seasons, from the provisions of section 52;

(g) of workers engaged in a manufacturing process which cannot be carried on except at times dependent on the irregular action of natural forces, from the provisions of sections 52 and 55;

(h) of workers engaged in engine-rooms or boiler-houses or in attending to power-plant or transmission machinery, from the provisions of section 52.

(3) Rules made under sub-section (2) providing for any exemption may also provide for any consequential exemption from the provisions of section 61 which the Provincial Government may deem to be expedient, subject to such conditions as it may prescribe.

(4) In making rules under this section the Provincial Government shall prescribe the maximum limits for the weekly hours of work for all classes of workers, and any exemption given, other than an exemption under clause (a) of sub-section (2), shall be subject to such limits.

(5) Rules made under this section shall remain in force for not more than three years.

65. Power to make exempting orders.—(1) Where the Provincial Government is satisfied that, owing to the nature of the work carried on or to other circumstances, it is unreasonable to require that the periods of work of any adult workers in any factory or class or description of factories should be fixed beforehand, it may, by written order, relax or modify the provisions of section 61 in respect of such workers therein, to such extent and in such manner as it may think fit, and subject to such conditions as it may deem expedient to ensure control over periods of work.

(2) The Provincial Government or, subject to the control of the Provincial Government, the Chief Inspector, may by written order exempt, on such conditions as it or he may deem expedient, any or all of the adult workers in any factory or group or class or description of factories from any or all of the provisions of sections 51, 52, 54, 55, 56 and 61, on the ground that the exemption is required to enable the factory or factories to deal with an exceptional press of work.

(3) Any exemption given under sub-section (2) in respect of weekly hours of work shall be subject to the maximum limits prescribed under sub-section (4) of section 64.

(4) An order under Sub-section (2) shall remain in force for such period, not exceeding two months from the date on which notice thereof is given to the manager of the factory, as may be specified in the order:

Provided that, if in the opinion of the Provincial Government the Public interest so requires, the Provincial Government may from time to time, by notification in the official Gazette, extend the operation of any such order for such period, not exceeding six months at any one time, as may be specified in the notification.

66. Further restrictions on employment of women.—(1) The provisions of this Chapter shall, in their application to women workers in factories, be supplemented by the following further restrictions, namely:—

(a) no exemption from the provisions of section 54 may be granted in respect of any woman;

(b) no woman shall be employed in any factory except between the hours of 6 A.M. and 7 P.M.:

Provided that the Provincial Government may, by notification in the official Gazette, in respect of any class or description of factories, vary the limits laid down in clause (b), so however that no such variation shall authorise the employment of any woman between the hours of 10 P.M. and 5 A.M.

(2) The Provincial Government may make rules providing for the exemption from the restrictions set out in sub-section (1), to such extent and subject to such conditions as it may prescribe, of women working in fish-curing or fish-canning factories, where the employment of women beyond the hours specified in the said restrictions is necessary to prevent damage to, or deterioration in, any raw material.

(3) Rules made under sub-section (2) shall remain in force for not more than three years.

67. Power to make rules to supplement this Chapter.—The Provincial Government may make rules providing for any other matter which may be expedient in order to give effect to the provisions of this Chapter.

CHAPTER VII

EMPLOYMENT OF YOUNG PERSONS

68. Prohibition of employment of young children.—No child who has not completed his thirteenth year shall be employed, or permitted to work, in any factory.

69. Non-adult workers to carry tokens.—A child who has completed his thirteenth year or an adolescent shall not be employed or permitted to work in any factory unless—

(a) a certificate of fitness granted with reference to him under section 70 is in the custody of the manager of the factory, and

(b) such child or adolescent carries while he is at work a token giving a reference to such certificate.

70. Certificates of fitness.—(1) A certifying surgeon shall, on the application of any young person or his parent or guardian accompanied by a document signed by the manager of a factory that such person will be employed therein if certified to be fit for work in a factory, or on the application of the manager of the factory in which any young person wishes to work, examine such person and ascertain his fitness for work in a factory.

(2) The certifying surgeon, after examination, may grant to such young person, in the prescribed form, or may renew—

(a) a certificate of fitness to work in a factory as a child, if he is satisfied that the young person has completed his thirteenth year, that he has attained the prescribed physical standards (if any) and that he is fit for such work.

(b) a certificate of fitness to work in a factory as an adult, if he is satisfied that the young person has completed his fifteenth year and is fit for a full day's work in a factory;

Provided that unless the certifying surgeon has personal knowledge of the place where the young person proposes to work and of the manufacturing process in which he will be employed, he shall not grant or renew a certificate under this sub-section until he has examined such place

(3) A certificate of fitness granted or renewed under sub-section (2)—

(a) shall be valid only for a period of twelve months from the date thereof;

(b) may be made subject to conditions in regard to the nature of the work in which the young person may be employed, or requiring re-examination of the young person before the expiry of the period of twelve months.

(4) A certifying surgeon may revoke any certificate granted or renewed under sub-section (2) if in his opinion the holder of it is no longer fit to work in the capacity stated therein in a factory.

(5) Where a certifying surgeon refuses to grant or renew a certificate or a certificate of the kind requested or revokes a certificate, he shall, if so requested by any person who could have applied for the certificate or the renewal thereof, state his reasons in writing for so doing.

(6) Where a certificate under this section with reference to any young person is granted or renewed subject to such conditions as are referred to in clause (b) of sub-section (3), the young person shall not be employed, or permitted to work, in any factory except in accordance with those conditions.

71. Effect of certificate of fitness granted to adolescent.—(1) An adolescent who has been granted a certificate of fitness to work in a factory as an adult under clause (b) of sub-section (2) of section 70, and who while at work in a factory carries a token giving reference to the certificate, shall be deemed to be an adult for all the purposes of Chapter VI.

(2) An adolescent who has not been granted a certificate of fitness to work in a factory as an adult under the aforesaid clause (b) shall, notwithstanding his age, be deemed to be a child for all the purposes of this Act.

72. Work to be done for children.—(1) No child shall be employed or permitted to work, in any factory—

(a) for more than four and a half hours in any day;

(b) between the hours of 7 P.M. and 6 A.M.

(2) The period of work of all children employed in a factory shall be limited to two shifts which shall not overlap or exceed five hours each; and each child employed in a factory shall be allowed to be absent with the previous permission in writing of the Chief Inspector, be changed more frequently than once in a period of thirty days.

(3) No child shall be employed or permitted to work in a factory, and no contract shall be made for the employment of a child or any be granted in respect of any child

(4) No child shall be employed, or permitted to work, in any factory on any day on which he has already been working in another factory.

73. Notice of periods for work for children.—(1) There shall be displayed and correctly maintained in every factory in which children are employed, in accordance with the provisions of sub-section (2) of section 109 a Notice of Periods for Work for Children, showing clearly the periods within which children may be required to work.

(2) The periods shown in the notice required by sub-section (1) shall be fixed beforehand in accordance with the method laid down for adult workers in section 61, and shall be such that children working for those periods would not be working in contravention of any of the provisions of section 72.

(3) The provisions of sub-sections (8), (9) and (10) of section 61 shall apply also to the notice required by sub-section (1) of this section.

74. Register of Child Workers.—(1) The manager of every factory in which children are employed shall maintain a Register of Child Workers, to be available to the Inspector at all times during working hours, showing—

- (a) the name of each child worker in the factory;
- (b) the nature of his work;
- (c) the group, if any, in which he is included;
- (d) where his group works on shifts, the relay to which he is allotted;
- (e) the number of his certificate of fitness granted under section 70;
- (f) such other particulars as may be prescribed.

(2) The Provincial Government may prescribe the form of the Register of Child Workers, the manner in which it shall be maintained and the period for which it shall be preserved.

75. Hours of work to correspond with Notice under section 73 and Register under section 74.—No child shall be employed in any factory otherwise than in accordance with the Notice of Periods for Work for Children displayed in the factory and the entries made beforehand against his name in the Register of Child Workers of the factory.

76. Power to require medical examination.—Where an Inspector is of opinion—

(a) that any person working in a factory without a certificate of fitness is a young person, or

(b) that a young person working in a factory with a certificate of fitness is no longer fit to work in the capacity stated therein,—

he may serve on the manager of the factory a notice requiring that such person or young person, as the case may be, shall be examined by a certifying surgeon, and such person or young person shall, when so directed, be examined by a certifying surgeon, and if he has been examined and has been granted a certificate of fitness or a fresh certificate of fitness, as the case may be, under section 70, or has been certified by the certifying surgeon examining him not to be a young person

77. Power to make rules.—The Provincial Government may make rules—

(a) prescribing the forms of certificates of fitness to be granted under section 70, providing for the grant of duplicates in the event of loss of the original certificates, and fixing the fees which may be charged for such certificates and renewals thereof and such duplicates;

(b) prescribing the physical standards to be attained by children and adolescents working in factories;

(c) regulating the procedure of certifying surgeons under this Chapter;

(d) specifying other duties which certifying surgeons may be required to perform in connection with the employment of young persons in factories, and fixing the fees which may be charged for such duties and the persons by whom they shall be payable;

(e) providing for any other matter which may be expedient in order to give effect to the provisions of this Chapter.

78. Certain other provisions of law not barred.—The provisions of this Chapter shall be in addition to, and not in derogation of, the provisions of the Employment of Children Act, 1938 (XXVI of 1938).

CHAPTER VIII

HOLIDAYS WITH PAY

79. Application of Chapter.—The provisions of this Chapter—

(a) shall not apply to a worker in a factory employed in a manufacturing process which is ordinarily carried on for less than one hundred and eighty working days in the year;

(b) shall not operate to the prejudice of any rights to which a worker may be entitled under any other law or under the terms of any award, agreement or contract of service.

80. Annual holidays.—(1) Every worker who has completed a period of twelve months' continuous service in a factory shall be allowed during the subsequent period of twelve months, holidays for ten days in the case of an adult or fourteen days in the case of a child, inclusive of the day or days, if any, on which he is entitled to a holiday under sub-section (1) of section 52:

Provided that where the employment of a worker who has completed a period of six months' continuous service in a factory is terminated before he has completed a period of twelve months' continuous service, he shall be deemed to have become entitled to holidays for the number of days which bears to the number of days specified in his case in this sub-section the same proportion as the period of his continuous service bears to one year, and the occupier of the factory shall pay to him the amount payable under section 81 in respect of the number of holidays to which he is so deemed to have become entitled.

(2) If a worker does not in any one such period of twelve months take the whole of the holidays allowed to him under sub-section (1), any holidays not taken by him shall be added to the holidays to be allowed to him under that sub-section in the succeeding period of twelve months, so however that the total number of days' holidays which may be carried forward to a succeeding period shall not exceed ten in the case of an adult or fourteen in the case of a child.

(3) A worker may in any such period of twelve months apply in writing to the manager of the factory, not less than three full working days before the date on which he wishes his holidays to begin, to take all or any number of the holidays allowable to him during that period under sub-sections (1) and (2), either on one occasion or on two occasions, at his option.

Provided that his first application during the period shall be,—

(a) if he is an adult, for not less than six days or one-half of the total number of holidays so allowable to him during the period, whichever is greater;

(b) if he is a child, for not less than nine days or one-half of the total number of holidays so allowable to him during the period, whichever is greater.

(4) If, for the purpose of ensuring the continuity of work in a factory, the Works Committee of the factory, if any, constituted under section 3 of the Industrial Disputes Act, 1917 (XIV of 1947), or if there is no such Works Committee in the factory, the manager of the factory in agreement with representatives of the workers therein chosen in the prescribed manner, may lodge with the Chief Inspector a scheme in writing whereby the holidays allowable under this section may be regulated for the above purpose.

(5) A scheme lodged under sub-section (4) shall be posted in convenient places in the factory and shall be in force for a period of twelve months from the date on which it is lodged with the Chief Inspector, and may thereafter be renewed, with or without modification, for further periods of twelve months.

at any one time, by the said Works Committee or, as the case may be, by the manager of the factory in agreement with representatives of the workers as aforesaid.

(6) An application for holidays which does not contravene the provisions of sub-section (3) shall not be refused unless the refusal is in accordance with a scheme for the time being in operation lodged under sub-section (4).

(7) If a worker entitled to holidays under sub-sections (1) and (2) is discharged from the factory before he has taken all the holidays to which he is so entitled, or if, having applied for and having been refused such holidays, he quits his employment before he has taken the holidays, the occupier of the factory shall pay him the amount payable under section 81 in respect of the holidays not taken.

Explanation 1.—For the purposes of this section, a worker shall be deemed to have completed a period of continuous service in a factory notwithstanding any interruption in service during that period brought about by sickness, accident or authorised leave not exceeding one quarter of the period in the aggregate for all three, or by a lock-out, or by a strike which is not an illegal strike, or one or more periods of involuntary unemployment not exceeding one-twelfth of the period in the aggregate.

Explanation 2.—For the purposes of *Explanation 1*—

(a) authorised leave shall include any casual absence due to illness or other reasonable cause provided that the worker within three days from the commencement of the absence gives the reasons for the absence in writing to the manager of the factory, and may include periods of unauthorised leave, not exceeding in the aggregate one-eighteenth of the period, but shall not include any weekly holiday allowed under section 52 which occurs at the beginning or end of an interruption brought about by the leave;

(b) in calculating the period of authorised leave or period of involuntary unemployment no account shall be taken of leave admissible and granted under any other law;

(c) "illegal strike" means a strike which is illegal within the meaning of section 24 of the Industrial Disputes Act, 1947 (XIV of 1947)

81. Pay during annual holidays.—Without prejudice to the conditions governing the day or days, if any, on which the worker is entitled to a holiday under sub-section (1) of section 52, a worker shall, for the remaining days of the holidays allowed to him under section 80, be paid at a rate equivalent to the daily average of his wages, as defined in the Payment of Wages Act, 1936 (IV of 1936), for the days on which he actually worked during the preceding three months, exclusive of any earnings in respect of overtime.

82. Half payment in advance in certain cases.—A worker who has been allowed holidays for not less than six days under section 80 shall, before his holidays begin, be paid half the total pay due for the period of the holidays

83. Power of Inspector to act for worker.—Any Inspector may institute proceedings on behalf of any worker to recover any sum required to be paid by an employer under this Chapter which the employer has not paid

84. Power to make rules.—(1) The Provincial Government may make rules to carry into effect the provisions of this Chapter.

(2) Without prejudice to the generality of the foregoing power rules may be made under this section prescribing the keeping by managers of factories of registers showing such particulars as may be prescribed and requiring such registers to be made available for examination by Inspectors. •

(3) The Central Government may give directions to a Province as to the carrying into execution of the provisions of this section.

85. Power to exempt factories.—Where the Provincial Government is satisfied that the leave rules applicable to workers in a factory provide benefits in its opinion substantially similar to those for which this Chapter makes provision, it may, by written order exempt the factory from the provisions of this Chapter, subject to such conditions, if any, as may be specified in the order.

CHAPTER IX

SPECIAL PROVISIONS

86. Certain provisions of Act to apply to other premises.—(1) The provisions of—

- (i) clauses (a) and (b) of sub-section (1) of section 12, clause (a) of sub-section (1) of section 14, and sub-section (1) of section 18;
- (ii) sub-section (1) of section 19 and sub-section (1) of section 20;
- (iii) section 22;
- (iv) section 50,
- (v) sections 51, 52, 53 and 54,
- (vi) sections 68, 72 and 77,
- (vii) sections 88, 89, 90, 91, 110 and 111;

and such other provisions of this Act as the Provincial Government may, by notification in the official Gazette, specify in this behalf shall so far as may be apply to any premises not being a factory or a mine subject to the operation of the Factories Act, 1923 (IV of 1923) including the precincts thereof, in any part of which a manufacturing process is being carried on with or without the aid of power and otherwise than by the occupation thereof with the aid of his family only, or so ordinarily so carried on, as they apply to factories and all the references in this Act to a factory shall be construed accordingly.

(2) If in the opinion of the Inspector the facilities required to be provided under the provisions mentioned in clause (ii) of sub-section (1) are readily available to the workers in such premises as aforesaid in the immediate vicinity thereof he may, by order in writing, direct that it shall not be necessary to provide the said facilities on the actual premises.

87. Dangerous operations.—Where the Provincial Government is of opinion that any operation carried on in a factory exposes any persons employed upon it to a serious risk of bodily injury, poisoning or disease, it may make rules applicable to any factory or class or description of factories in which the operation is carried on—

- (a) specifying the operation and declaring it to be dangerous,
- (b) prohibiting or restricting the employment of women, adolescents or children upon the operation;
- (c) providing for the medical examination of persons employed, or seeking to be employed, upon the operation, and prohibiting the employment of persons not certified as fit for such employment;
- (d) providing for the protection of all persons employed upon the operation or in the vicinity of the places where it is carried on;
- (e) prohibiting, restricting or controlling the use of any specified materials or processes in connection with the operation.

88. Notice of certain accidents.—Where in any factory an accident occurs which causes death, or which causes any bodily injury by reason of which the person injured is prevented from working at any time during the period of seventy-two hours immediately following the accident, or which is of any such nature as may be prescribed in this behalf, the manager of the factory shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed.

89. Notice of certain diseases.—(1) Where any worker in a factory contracts any disease specified in the Schedule, the manager of the factory shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed.

(2) If any medical practitioner attends a person who is or has been employed in a factory, and who is, or is believed by the medical practitioner to be, suffering from any disease specified in the Schedule, the medical practitioner shall without delay send a report in writing to the office of the Chief Inspector stating—

- (a) the name and full postal address of the patient;
- (b) the disease from which he believes the patient to be suffering;
- (c) the name and address of the factory in which the patient is, or was last, employed.

(3) Where it is confirmed to the satisfaction of the Chief Inspector, by a report of a certifying surgeon or otherwise, that a person who is the subject of a report under sub-section (2) is suffering from a disease specified in the Schedule, he shall pay to the medical practitioner in consideration for his report such fee as may be prescribed, and the fee so paid shall be recoverable (if necessary, as an arrear of land-revenue) from the occupier of the factory in which the person suffering from the disease was last employed.

(4) If any medical practitioner fails to comply with the provisions of sub-section (2), he shall be punishable with fine which may extend to fifty rupees.

90. Power to direct investigation of cases of accident or disease.—(1) The Provincial Government may, if it considers it expedient so to do, appoint a competent person to inquire into the causes of any accident occurring in a factory or into any case where a disease specified in the Schedule has been, or is suspected to have been, contracted in a factory, and may also appoint one or more persons possessing legal or special knowledge to act as assessors in such inquiry.

(2) The person appointed to hold an inquiry under this section shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), for the purposes of enforcing the attendance of witnesses and compelling the production of documents and material objects, and may also, so far as may be necessary for the purposes of the inquiry, exercise any of the powers of an Inspector under this Act; and every person required by the person making the inquiry to furnish any information shall be deemed to be legally bound so to do within the meaning of section 176 of the Indian Penal Code (XLV of 1860).

(3) The person holding an inquiry under this section shall make a report to the Provincial Government stating the causes of the accident, or as the case may be, disease, and any attending circumstances, and adding any observations which he or any of the assessors may think fit to make.

(4) The Provincial Government may, if it thinks fit, cause to be published any report made under this section, or any extracts therefrom.

(5) The Provincial Government may make rules for regulating the procedure at inquiries under this section.

91. Power to take samples.—(1) An Inspector may at any time during the normal working hours of a factory, after informing the occupier or manager of the factory or other person for the time being purporting to be in charge of

the factory, take in the manner hereinafter provided a sufficient sample of any substance used or intended to be used in the factory, such use being—

(a) in the belief of the Inspector in contravention of any of the provisions of this Act or the rules made thereunder, or

(b) in the opinion of the Inspector likely to cause bodily injury to, or injury to the health of, workers in the factory.

(2) Where the Inspector takes a sample under sub-section (1), he shall, in the presence of the person informed under that sub-section unless such person wilfully absents himself, divide the sample into three portions and effectively seal and suitably mark them, and shall permit such person to add his own seal and mark thereto.

(3) The person informed as aforesaid shall, if the Inspector so requires, provide the appliances for dividing, sealing and marking the sample taken under this section.

(4) The Inspector shall—

(a) forthwith give one portion of the sample to the person informed under sub-section (1);

(b) forthwith send the second portion to a Government Analyst for analysis and report thereon;

(c) retain the third portion for production to the Court before which proceedings, if any, are instituted in respect of the substance.

(5) Any document purporting to be a report under the hand of any Government Analyst upon any substance submitted to him for analysis and report under this section, may be used as evidence in any proceedings instituted in respect of the substance.

CHAPTER X

PENALTIES AND PROCEDURE

92. General penalty for offences.—Save as is otherwise expressly provided in this Act and subject to the provisions of section 93, if in, or in respect of, any factory there is any contravention of any of the provisions of this Act or of any rule made thereunder or of any order in writing given thereunder, the occupier and manager of the factory shall each be guilty of an offence and punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both, and if the contravention is continued after conviction, with a further fine which may extend to seventy-five rupees for each day on which the contravention is so continued:

Provided that if both the occupier and manager are convicted, the aggregate of the fines inflicted on them in respect of the same contravention shall not exceed the amounts specified in this section.

93. Liability of owner of premises in certain circumstances.—Where in any premises separate buildings, or in any building separate parts of the building or separate parts of any room therein are leased or occupied by different persons in such a manner as to constitute separate factories, the owner of the premises or building, as the case may be, shall be liable, in the stead of the occupier of the factory for any contravention in, or in respect of, any part of the premises or building which is used as a factory, of—

(a) the provisions of Chapter III or of any rules made thereunder;

(b) the provisions of Chapter IV or of any rules made thereunder, except in so far as they relate to plant or machinery belonging to or supplied by the occupier of the factory;

(c) the provisions of Chapter V or of any rules made thereunder, and in computing for the purposes of any of the provisions mentioned in this clause the number of workers employed, the whole of the premises or building, as the case may be, shall be deemed to be a single factory.

Provided that—

(i) the provisions of this section shall not apply to, or in respect of, any building or room in the sole occupation of the occupier of a factory;

(ii) the aforesaid owner shall be liable for any contravention of any of the provisions of this Act or of the rules made thereunder relating to the cleanliness of sanitary conveniences only when those conveniences are used by workers of more than one occupier;

(iii) the aforesaid owner shall be liable for any contravention of any of the provisions of this Act or of the rules made thereunder relating to hoists and lifts, and means of escape and safety precautions in case of fire, only in so far as the said provisions relate to things under his control.

94. Enhanced penalty after previous conviction. If any person who has been convicted of any offence punishable under section 92 is again guilty of an offence involving a contravention of the same provision, he shall be punishable on the second conviction with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees and shall not be less than two hundred rupees or with both, and if he is again so guilty, shall be punishable on the third or any subsequent conviction with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees and shall not be less than five hundred rupees or with both:

Provided that for the purposes of this section no cognizance shall be taken of any conviction made more than two years before the commission of the offence which is being punished:

Provided further that the Court, if it is satisfied that there are exceptional circumstances warranting such a course, may, after recording its reasons in writing, impose a smaller fine than is required by this section.

95. Offences involving several persons.—If any persons are employed in a factory otherwise than in accordance with the provisions of this Act and of the rules and orders made thereunder, there shall be deemed to have been committed a separate offence in respect of each person so employed.

96. Penalty for obstructing Inspector.—Whoever wilfully obstructs an Inspector in the exercise of any power conferred on him by or under this Act, or fails to produce on demand by an Inspector any registers or other documents in his custody kept in pursuance of this Act or of any rules made thereunder, or conceals or prevents any worker in a factory from appearing before, or being examined by, an Inspector, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

97. Penalty for wrongfully disclosing results of analysis under section 91.—Whoever, except in so far as it may be necessary for the purposes of a prosecution for any offence punishable under this Act, publishes or discloses to any person the results of an analysis made under section 91, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

98. Offences by workers.—(1) If any worker employed in a factory contravenes any provision of this Act or any rules or orders made thereunder, imposing any duty or liability on workers, he shall be punishable with fine which may extend to twenty rupees.

(2) Where a worker is convicted of an offence punishable under sub-section (1), the occupier or manager of the factory shall not be deemed to be guilty of an offence in respect of that contravention, unless it is proved that he failed to take all reasonable measures for its prevention.

99. Penalty for using false certificate of fitness.—Whoever knowingly uses or attempts to use, as a certificate of fitness granted to himself under section 70, a certificate granted to another person under that section, or who, having procured such a certificate, knowingly allows it to be used, or an attempt to use it to be made, by another person, shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to fifty rupees or with both.

100. Penalty for permitting double employment of child.—If a child works in a factory on any day on which he has already been working in another factory, the parent or guardian of the child or the person having custody of or control over him or obtaining any direct benefit from his wages, shall be punishable with fine which may extend to fifty rupees, unless it appears to the Court that the child so worked without the consent, connivance or wilful default of such parent, guardian or person.

101. Determination of occupier in certain cases.—(1) Where the occupier of a factory is a firm or other association of individuals, any one of the individual partners or members thereof may be prosecuted and punished under this Chapter for any offence for which the occupier of the factory is punishable:

Provided that the firm or association may give notice to the Inspector that it has nominated one of its members who is resident within the Provinces of India to be the occupier of the factory for the purposes of this Chapter, and such individual shall, so long as he is so resident, be deemed to be the occupier of the factory for the purposes of this Chapter, until further notice cancelling his nomination is received by the Inspector or until he ceases to be a partner or member of the firm or association.

(2) Where the occupier of a factory is a company, any one of the directors thereof, or in the case of a private company, any one of the shareholders thereof, may be prosecuted and punished under this Chapter for any offence for which the occupier of the factory is punishable:

Provided that the company may give notice to the Inspector that it has nominated a director, or in the case of a private company, a shareholder, who is resident in either case within the Provinces of India, to be the occupier of the factory for the purposes of this Chapter, and such director or shareholder, as the case may be, shall, so long as he is so resident, be deemed to be the occupier of the factory for the purposes of this Chapter, until further notice cancelling his nomination is received by the Inspector or until he ceases to be a director or shareholder.

(3) Where the owner of any premises or building referred to in section 93 is not an individual, the provisions of this section shall apply to such owner as they apply to occupiers of factories who are not individuals.

102. Exemption of occupier or manager from liability in certain cases.—

(1) Where the occupier or manager of a factory is charged with an offence punishable under this Act, he shall be entitled upon oath to the defence made by him and on giving to the prosecutor not less than three clear days' notice in writing of his intention so to do, to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the occupier or manager of the factory, as the case may be, proves to the satisfaction of the Court—

(a) that he has used due diligence to enforce the execution of this Act, and

(b) that the said other person committed the offence in question without his knowledge, consent or connivance,—

that other person shall be convicted of the offence and shall be liable to the like punishment as if he were the occupier or manager of the factory, and the occupier or manager, as the case may be, shall be discharged from any liability under this Act in respect of such offence.

Provided that in seeking to prove as aforesaid, the occupier or manager of the factory, as the case may be, may be examined on oath, and his evidence and that of any witness whom he calls in his support shall be subject to cross-examination on behalf of the person he charges as the actual offender and by the prosecutor.

(2) Where it is made to appear to the satisfaction of the Inspector at any time prior to the institution of proceedings in respect of an offence punishable under this Act—

(a) that the occupier or manager of the factory has used all due diligence to enforce the execution of this Act, and

(b) by what person the offence has been committed, and

(c) that it has been committed without the knowledge, consent or connivance of the occupier or manager, or in contravention of his orders,—

the Inspector shall proceed against the person whom he believes to be the actual offender without first proceeding against the occupier or manager of the factory, and such person shall be liable to the like punishment as if he were the occupier or manager.

103. Power of Court to make orders.—(1) Where the occupier or manager of a factory is convicted of an offence punishable under this Act otherwise than under section 94, the Court may, in addition to or instead of imposing any punishment, by order in writing require him, within a period specified in the order (which the Court may, if it thinks fit and on application in such behalf, from time to time extend) to take such measures as may be so specified for remedying the matters in respect of which the offence was committed.

(2) Where an order is made under sub-section (1), the occupier or manager of the factory, as the case may be, shall not be liable under this Act in respect of the continuation of the offence during the period or extended period, if any, allowed by the Court, but if, on the expiry of such period or extended period, as the case may be, the order of the Court has not been fully complied with, the occupier or manager, as the case may be, shall be deemed to have committed a further offence, and may be sentenced therefor by the Court to undergo imprisonment for a term which may extend to six months or to pay a fine which may extend to one hundred rupees for every day after such expiry on which the order has not been complied with, or both to undergo such imprisonment and to pay such fine, as aforesaid.

104. Presumption as to employment.—If a person is found in a factory at any time, except during intervals for meals or rest, when work is going on or the machinery is in motion, he shall until the contrary is proved, be deemed for the purposes of this Act and the rules made thereunder to have been at that time employed in the factory.

105. Evidence as to age.—(1) When any act or omission would, if a person were under or over a certain age, be an offence punishable under this Act, and such person is in the opinion of the Court apparently under or over such age, the burden shall be on the accused to prove that such person is not under or over such age.

(2) A declaration in writing by a certifying surgeon relating to a worker that he has personally examined him and believes him to be under or over the age stated in such declaration shall, for the purposes of this Act and the rules made thereunder, be admissible as evidence of the age of that worker.

106. Cognizance of offences.—(1) No prosecution under this Act shall be instituted except by, or with the previous sanction in writing of, an Inspector.

(2) No Court inferior to that of a Presidency Magistrate or of a Magistrate of the first class shall try any offence punishable under this Act.

107. Limitation of prosecutions.—No Court shall take cognizance of any offence punishable under this Act unless complaint thereof is made within six months of the date on which the alleged commission of the offence came to the knowledge of an Inspector:

Provided that where the offence consists of disobeying a written order made by an Inspector, complaint thereof may be made within twelve months of the date on which the offence is alleged to have been committed.

CHAPTER XI

SUPPLEMENTAL

108. Appeals.—(1) The manager of a factory on whom an order in writing by an Inspector has been served under the provisions of this Act or the occupier of the factory may, within thirty days of the service of the order, appeal against it to the prescribed authority, and such authority may, subject to rules made in this behalf by the Provincial Government, confirm, modify or reverse the order.

(2) Subject to rules made in this behalf by the Provincial Government (which may prescribe classes of appeals which shall not be heard with the aid of assessors), the appellate authority may, or if so required in the petition of appeal shall, hear the appeal with the aid of assessors, one of whom shall be appointed by the appellate authority and the other by such body representing the industry concerned as may be prescribed:

Provided that if no assessor is appointed by such body before the time fixed for hearing the appeal, or if the assessor so appointed fails to attend the hearing at such time, the appellate authority may, unless satisfied that the failure to attend is due to sufficient cause, proceed to hear the appeal without the aid of such assessor or, if it thinks fit, without the aid of any assessor.

(3) Subject to such rules as the Provincial Government may make in this behalf and subject to such conditions as to partial compliance or the adoption of temporary measures as the appellate authority may in any case think fit to impose, the appellate authority may, if it thinks fit, suspend the order appealed against pending the decision of the appeal.

109. Display of notices.—(1) In addition to the notices required to be displayed in any factory by or under this Act, there shall be displayed in every factory a notice containing such abstracts of this Act and of the rules made thereunder as may be prescribed, in English and in a language understood by the majority of the workers in the factory.

(2) All notices required by or under this Act to be displayed in a factory shall be displayed at some conspicuous and convenient place at or near the main entrance to the factory, and shall be maintained in a clean and legible condition.

(3) The Chief Inspector may, by order in writing served on the manager of any factory, require that there shall be displayed in the factory any other notice or poster relating to the health, safety or welfare of the workers in the factory

110. Service of notices.—The Provincial Government may make rules prescribing the manner of the service of orders under this Act on occupiers or managers of factories.

111. Returns.—The Provincial Government may make rules requiring occupiers or managers of factories to submit such returns, occasional or periodical, as may in its opinion be required for the purposes of this Act.

112. Obligations of workers.—No worker in a factory—

(a) shall wilfully interfere with or misuse any appliance, convenience or other thing provided in a factory for the purposes of securing the health, safety or welfare of the workers therein;

(b) shall wilfully and without reasonable cause do anything likely to endanger himself or others;

(c) shall wilfully neglect to make use of any appliance or other thing provided in the factory for the purposes of securing the health or safety of the workers therein.

113. General power to make rules.—The Provincial Government may make rules providing for any matter which, under any of the provisions of this Act, is to be or may be prescribed.

114. Publication of rules.—All rules made under this Act shall be published in the official Gazette, and shall be subject to the condition of previous publication; and the date to be specified under clause (3) of section 23 of the General Clauses Act, 1897 (X of 1897), shall be not less than three months from the date on which the draft of the proposed rules was published.

115. Application of Act to Government factories.—This Act shall apply to factories belonging to the Central or any Provincial Government.

116. Protection to persons acting under this Act.—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

117. Amendment of section 3, Act XXVI of 1938.—In sub-section (3) of section 3 of the Employment of Children Act, 1938, for the word "twelfth" the word "thirteenth" shall be substituted.

118. Repeal and savings.—The enactments set out in the Table appended to this section are hereby repealed.

Provided that anything done under the said enactments which could have been done under this Act if it had then been in force shall be deemed to have been done under this Act.

TABLE
Enactments repealed.

Year.	No.	Short title.
1934	XXV	The Factories Act, 1934.
1944	XIV	The Factories (Amendment) Act, 1944.
1945	III	The Factories (Amendment) Act, 1945.
1946	X	The Factories (Amendment) Act, 1946.
1947	V	The Factories (Amendment) Act, 1947.

THE SCHEDULE

(See sections 89 and 90)

List of Notifiable Diseases.

1. Lead poisoning, including poisoning by any preparation or compound of lead.
2. Lead tetra-ethyl poisoning.
3. Phosphorus poisoning.
4. Mercury poisoning.
5. Manganese poisoning.
6. Arsenical poisoning.
7. Tetrachlorethan poisoning.
8. Poisoning by nitrous fumes.
9. Carbon bisulphide poisoning.
10. Benzene poisoning, including poisoning by any of its homologues.
11. Chrome ulceration.
12. Anthrax.
13. Silicosis.
14. Compressed air illness.
15. Halogens.
16. Pathological manifestations due to—
 - (a) radium or other radio-active substances;
 - (b) X-rays.
17. Primary epitheliomatous cancer of the skin.
18. The sequelae of any disease or poisoning mentioned in this Schedule.

STATEMENT OF OBJECTS AND REASONS.

The existing law relating to the regulation of labour employed in factories in India is embodied in the Factories Act, 1934. Experience of the working of the Act has revealed a number of defects and weaknesses which hamper effective administration. Although the Act has been amended in certain respects in a piece-meal fashion whenever some particular aspect of labour safety or welfare assumed urgent importance, the general framework has remained unchanged. The provisions for the safety, health and welfare of workers are generally found to be inadequate and unsatisfactory, and even such protection as is provided does not extend to the large mass of workers employed in work-places not covered by the Act. In view of the large and growing industrial activities in the country, a radical overhauling of the Factories law is essentially called for and cannot be delayed.

The proposed legislation differs materially from the existing law in several respects. Some of the important features are herein mentioned. Under the definition of "Factory" in the Act of 1934, several undertakings are excluded from its scope but it is essential that important basic provisions relating to health, working hours, holidays, lighting and ventilation, should be extended to all work-places in view of the unsatisfactory state of affairs now prevailing in unregulated factories. Further the present distinction between seasonal and perennial factories which has little justification has been done away with. The minimum age of employment for children has been raised from 12 to 13 and their working hours reduced from 5 to 4½, with powers to Provincial Governments to prescribe even a higher minimum age for employment in hazardous undertakings.

The present Act is very general in character and leaves too much to the rule-making powers of the Provincial Governments. While some of them do have

rules of varying stringency, the position on the whole is not quite satisfactory. This defect is sought to be remedied by laying down clearly in the Bill itself the minimum requirements regarding health (cleanliness, ventilation and temperature, dangerous dusts and fumes, lighting and control of glare, etc.), safety (eye-protection, control of explosive and inflammable dusts, etc.), and general welfare of workers (washing facilities, first aid, canteens, shelter rooms, creches, etc.) amplified, where necessary, by rules and regulations to be prescribed by Provincial Governments.

Further the present Act leaves important and complex points to the discretion of Inspectors placing heavy responsibility on them. In view of the specialised and hazardous nature of the processes employed in the factories, it is too much to expect Inspectors to possess an expert knowledge of all these matters. The detailed provisions contained in the Bill will go a long way in lightening their burden.

Some difficulties experienced in the administration of the Act, especially relating to hours of employment, holidays with pay, etc., have been met by making the provisions more definite and clearer. The penalty clauses have also been simplified. An important provision has also been made in the Bill empowering Provincial Governments to require that every factory should be registered and should take a license for working to be renewed at periodical intervals. Provincial Governments are further being empowered to require that before a new factory is constructed or any extensions are made to an existing one, the plans, designs and specifications of the proposed construction should receive their prior approval.

It is expected that the Bill when enacted into law will considerably advance the condition of workers in factories.

The substantial changes made in the existing law are also indicated in the Notes on Clauses. Opportunity has also been taken to rearrange the existing law and to revise expressions, where necessary.

NEW DELHI;

The 5th November 1947.

JAGJIVAN RAM.

NOTES ON CLAUSES

(In these Notes section denotes a section of the present Act.)

CHAPTER I.—PRELIMINARY

Clause 2.—Cf. section 2. The age limit in the case of adults and 'adolescents' has been raised from 17 to 18 years. The interpretation of the item 'machinery' has been widened by bringing in 'prime movers' and 'transmission machinery' and the interpretation of the term 'factory' has been modified so as to cover those establishments which employ ten or more persons every day.

Clause 3.—Cf. section 3.

Clause 4.—Cf. section 7. The only change is in respect of reference to the number of persons employed.

Clause 5.—Cf. section 6.

Clause 6.—Cf. section 8.

*Clause 7.—*This is a new clause. As designs of most of the factory buildings and layout of machinery have been found unsatisfactory and the building materials used not suited to climatic conditions of the place which made working conditions unusually trying, this clause regarding approval, licensing and registration of factories is considered very necessary.

Clause 8.—Cf. section 9.

CHAPTER II.—THE INSPECTING STAFF.

Clause 9.—Cf. section 10.

Clause 10.—Cf. section 11.

Clause 11.—The existing section 12 has been amplified by laying down the duties of the certifying Surgeons more clearly.

CHAPTER III.—HEALTH. CHAPTER IV.—SAFETY AND CHAPTER V.—WELFARE.

The existing Chapter III relating to "Health and Safety" has been split up into three separate chapters each dealing with Health, Safety and Welfare of Workers. The clauses in these chapters have been redrafted and amplified prescribing the minimum standards required.

CHAPTER VI.—WORKING HOURS OF ADULTS.

Clause 51.—*Cf.* section 34. The noticeable change is that the distinction between 'seasonal' and 'non-seasonal' factories has been removed. Also the words 'allowed to work' wherever they occur in the existing Act have been substituted by the word 'employed' so as to obviate the plea that when the occupier was absent at the time, he could not have "allowed the worker to work".

Clause 52.—*Cf.* section 35.

Clause 53.—*Cf.* section 35A. A time limit has been fixed within which a compensatory holiday must be given.

Clause 54.—*Cf.* section 36. The proviso has been omitted as it is proposed to do away with the distinction between 'seasonal' and 'non-seasonal' factories.

Clause 55.—*Cf.* section 37. As hours of daily work have been reduced to nine, the period of work before rests has been reduced to five and the Provincial Governments have been empowered to prescribe higher limit of rest up to one hour in cases where they consider a longer rest interval necessary. The existing section 37 has been redrafted to provide for this.

Clause 56.—*Cf.* section 38.

Clause 57.—*Cf.* section 46. This has been redrafted in order to make it clear that a continuous rest period of twenty-four hours will be counted as a day's holiday.

Clause 58.—*Cf.* section 49.

Clause 59.—*Cf.* section 47. In this clause also the distinction between 'seasonal' and 'non-seasonal' factories has been removed.

Clause 60.—*Cf.* section 48.

Clause 61.—Existing sections 39 and 40 have been combined and redrafted with verbal changes.

Clause 62.—Existing section 41 has been redrafted with verbal changes. It has been made obligatory on the part of the Managers to show the registers to the Inspector at all times during working hours.

Clause 63.—*Cf.* section 42.

Clause 64.—*Cf.* section 43. In para. (h) of sub-clause (2) the workers attending to power-plant or transmission machinery have also been included for purposes of exemption.

Clause 65.—*Cf.* section 44.

Clause 66.—*Cf.* section 45. The second proviso in sub-section (1) of existing section 45 has been omitted to conform to the deletion of the distinction between 'seasonal' and 'non-seasonal' factories.

Clause 67.—This is a new clause enabling the Provincial Governments to make rules to supplement Chapter VI.

CHAPTER VII.—EMPLOYMENT OF YOUNG PERSONS.

Clause 68.—Cf. section 50. The minimum age has been raised to thirteen.

Clause 69.—Cf. section 51.

*Clause 70.—*The existing section 52 has been redrafted and the provisions regarding the examination and re-examination of young persons and grant of certificates of fitness to them tightened. To avoid unnecessary work on the certifying surgeon it has also been provided that he will examine only those young persons who produce a certificate from the Manager that he will be employed in his factory if found fit.

Clause 71.—Cf. section 53.

*Clause 72.—*As the hours of work of adults have been reduced to nine, the half-time period of a child has also been reduced to 4½ hours. The existing section 54 has been redrafted to provide for this change. A new sub-clause has also been added to prevent over-lapping shifts in the case of children.

Clause 73.—Cf. section 55. Sub-section (4) of the existing section has been omitted as it is covered by sub-clause (8) of clause 61.

Clause 74.—Cf. section 56. As in the case of clause 62, it has been made obligatory on the part of the Managers to make available the registers to the Inspector at all times during working hours.

Clause 75.—Cf. section 57.

Clause 76.—Cf. section 58.

Clause 77.—Cf. section 59.

Clause 78.—Cf. section 59C.

CHAPTER VIII.—HOLIDAYS WITH PAY.

*Clause 79.—*The reference to 'Seasonal factory' in the existing section 49A has been omitted and that section has been redrafted to exclude persons working in a manufacturing process which is ordinarily carried on for less than 180 days in a year.

*Clause 80.—*The existing section 49B has been completely recast and expanded to remove the practical difficulties which were experienced in its working. It provides for the grant of holidays in two spells to cover the needs of workers. It also provides for the grant of proportionate holidays to workers whose services have been terminated but who have completed six months continuous service. Provision has also been made for condoning unauthorised absence up to 20 days.

Clause 81.—Cf. section 49C.

Clause 82.—Cf. section 49D. Advance payment of half the pay has been limited to holidays for not less than six days.

Clause 83.—Cf. section 49E.

Clause 84.—Cf. section 49F.

Clause 85.—Cf. section 49G. The question whether the factory leave rules are substantially similar to those provided for in the Bill is left to be decided by the Provincial Governments in future.

CHAPTER IX.—SPECIAL PROVISIONS.

*Clause 86.—*This is partly a replacement of the existing sections 59A and 59B. The basic provisions regarding health, safety and welfare have been made applicable to all work places irrespective of the number of workers em-

ployed and excludes premises where processes are carried on by the occupier with the aid of his family only.

Clause 87.—The heading of the existing section 33(4) has been changed from 'Hazardous operations' to 'Dangerous operations' and a new sub-clause enabling the Provincial Governments to make rules prohibiting, restricting or controlling the use of any specified materials or processes in connection with the dangerous operations has been added.

Clause 88.—*Cf.* section 30. For the words "forty-eight hours" in the existing section the words "seventy-two hours" have been substituted.

Clause 89.—This is a new clause which has been inserted with a view to control industrial diseases.

Clause 90.—This is a new clause. It empowers the Provincial Governments to require a formal investigation in the case of serious accidents.

Clause 91.—This is a new clause intended to facilitate investigation of cases involving contravention of the safety provisions.

CHAPTER X.—PENALTIES AND PROCEDURE.

Clause 92.—The existing section 60 has been redrafted with a view to make the breach of any section or of any rule or order made under the Act an offence which can be punished with imprisonment or fine or with both.

Clause 93.—This is a new clause defining the liability of the owner of premises in certain circumstances.

Clause 94.—*Cf.* section 61. The limit of fine has been raised and provision has been made for awarding imprisonment for a period of one year.

Clause 95.—This is a new clause intended to cover offences involving several persons.

Clause 96.—*Cf.* section 63.

Clause 97.—This is a new clause prescribing penalty for disclosing the results of analysis made under clause 91.

Clause 98.—This is a new clause prescribing penalty for offences committed by workers.

Clause 99.—*Cf.* section 67. Punishment includes imprisonment also.

Clause 100.—*Cf.* section 68. The words 'on guardian' have been omitted from the heading.

Clause 101.—*Cf.* section 70. The heading has been slightly changed and a new sub-clause (3) added to cover the case of buildings owned by companies, etc.

Clause 102.—The existing section 71 has been recast and the provisions made more definite.

Clause 103.—This is a new clause which empowers the Courts to pass orders on the occupiers or managers of factories to take such measures for remedying the matters in respect of which offence was committed.

Clause 104.—*Cf.* section 72.

Clause 105.—*Cf.* section 73.

Clause 106.—*Cf.* section 74.

Clause 107.—*Cf.* section 75. In view of the great distances in India and the possible infrequency in the visits of Inspectors, the six months period has been made to date from the time the offence came to the knowledge of the Inspector instead of the date of offence.

CHAPTER XI—SUPPLEMENTAL.

Clause 108.—Cf. section 31.

Clause 109.—The existing section 76 has been recast and a new sub-clause (3) added which would enable the display of any notice or poster relating to health, safety and welfare of workers in a factory.

Clause 110.—This is a new clause enabling the Provincial Governments to prescribe the manner of service of orders on occupiers or managers of factories.

Clause 111.—Cf. section 77.

Clause 112.—This is a new clause defining the obligations of workers.

Clause 113.—This is a new clause giving general powers to the Provincial Governments to frame rules.

Clause 114.—Cf. section 79.

Clause 115.—Cf. section 80.

Clause 116.—Cf. section 81.

Clause 117.—This is a new clause which seeks to amend sub-section (3) of section 8 of the Employment of Children Act, 1938, by which the age of employment of children is raised from 12 to 18.

Clause 118.—This is a new clause.

The Schedule.—This has been added with reference to clauses 89 and 90.

L. A. BILL* No. 73 OF 1947.

A Bill to provide for the establishment and regulation of a Corporation for the development of the Damodar Valley in the Provinces of Bihar and West Bengal.

WHEREAS it is expedient to provide for the establishment and regulation of a Corporation for the development of the Damodar Valley in the Provinces of Bihar and West Bengal ;

AND WHEREAS in pursuance of section 103 of the Government of India Act, 1935 (26 Geo. 5, c. 2), resolutions have been passed by all the Chambers of the Provincial Legislatures of the said Provinces to the effect that certain matters enumerated in the Provincial Legislative List should be regulated in those Provinces by Act of the Dominion Legislature ;

It is hereby enacted as follows :—

PART I

INTRODUCTORY

1. Short title, extent and commencement.—(1) This Act may be called the Damodar Valley Corporation Act, 1947.

(2) It extends to the Provinces of Bihar and West Bengal.

(3) It shall come into force on the 1st day of January, 1948.

2. Interpretation.—In this Act, unless there is anything repugnant in the subject or context,—

(1) "Corporation" means the Corporation established by this Act ;

(2) "Damodar Valley" includes the basin of the Damodar river and its tributaries.

(3) "member" means a member of the Corporation and includes the Chairman ;

*The Governor General has accorded the sanction required by sub-section (3) of section 200 of the Government of India Act, as adapted by the India (Provisional Constitution) Order, 1947, to the introduction of the Bill, and has in pursuance of sub-section (3) of section 37 of the said Act, recommended to the Legislature the consideration of the Bill

(4) "participating Governments" means the Central Government, the Provincial Government of Bihar and the Provincial Government of West Bengal ;

(5) "prescribed" means prescribed by rules made under section 58 ;

(6) "Provincial Government" means the Provincial Government of Bihar or as the case may be of West Bengal, and "Provincial Governments" means the Provincial Governments of Bihar and of West Bengal ;

(7) "regulations" means the regulations made by the Corporation under section 59.

PART II

ESTABLISHMENT OF THE CORPORATION

3. Incorporation.—(1) With effect from such date as the Central Government may, by notification in the official Gazette, appoint in this behalf, there shall be established a Corporation by the name of the Damodar Valley Corporation.

(2) The said Corporation shall be a body corporate having perpetual succession and a common seal, and shall by the said name sue and be sued.

4. Constitution of the Corporation.—(1) The Corporation shall consist of a Chairman and two other members appointed by the Central Government after consultation with the Provincial Governments.

(2) A person shall be disqualified for being appointed, or for continuing as, a member of the Corporation—

(a) if he is a member of the Central or any Provincial Legislature ; or

(b) if he has, directly or indirectly, any interest in a subsisting contract made with, or in any work being done for, the Corporation except as a shareholder (other than a director) in an incorporated company.

(3) No act or proceeding of the Corporation shall be invalid by reason only of the existence of any vacancy amongst its members or any defect in the appointment of a member thereof.

5. Conditions of service of members.—(1) Every member of the Corporation shall devote the whole of his time to the affairs of the Corporation.

(2) The remuneration and other conditions of service of the members shall be such as may be prescribed.

6. Appointment of officers and servants.—(1) The Secretary of the Corporation who shall be its chief executive officer shall be appointed by the Central Government.

(2) The treasurer of the Corporation shall be appointed by the Corporation with the previous approval of the Central Government.

(3) The Corporation may appoint such other officers and servants as it considers necessary for the efficient performance of its functions.

7. Conditions of service of officers and servants.—The pay and other conditions of service of the officers and servants of the Corporation shall—

(a) as respects the secretary and treasurer, be such as may be prescribed ; and

(b) as respects the other officers and servants, be such as may be determined by regulations.

8. Functions and duties of the treasurer.—The functions and duties of the treasurer shall, in consultation with the Central Government, be determined by regulations.

9. General disqualification of all officers and servants.—No person who has directly or indirectly, by himself or his partner, any share or interest in any contract, by or on behalf of the Corporation, or in any employment under, by or on behalf of the Corporation otherwise than as an officer or servant thereof, shall become or remain an officer or servant of the Corporation :

Provided that nothing in this section shall apply to any share or interest in any contract with, by or on behalf of, or employment under, by or on behalf of, the Corporation, if the same is a share in a company contracting with or employed by or on behalf of the Corporation.

10. Appointment of Advisory Committee.—The Corporation may from time to time appoint one or more advisory committees for the purpose of securing the efficient discharge of the functions of the Corporation, and in particular for the purpose of securing that those functions are exercised with due regard to the circumstances and requirements of particular local areas.

PART III

FUNCTIONS AND POWERS OF THE CORPORATION

General

11. Limits of Damodar Valley and area of operation.—(1) The Central Government shall, by notification in the official Gazette, specify the limits of the Damodar Valley.

(2) The Corporation shall carry out all or any of its functions and exercise all or any of its powers within such area as the Central Government may, after consultation with the Provincial Governments, by notification in the official Gazette specify in this behalf, and the area so specified shall be called "the area of operation" of the Corporation.

12. Functions of the Corporation.—(1) It shall be the duty of the Corporation to promote by such measures as it thinks fit the agricultural, industrial, economic and public health development of the area within its operation.

(2) Without prejudice to the generality of the foregoing provision, the measures referred to therein may include—

- (a) the promotion and operation of schemes for irrigation and water supply;
- (b) the promotion and operation of schemes for the generation, transmission and distribution of electrical energy, both hydro-electric and thermal
- (c) the promotion and operation of schemes for flood control in the Damodar river and its tributaries and for the improvement of flow conditions in the Hooghly;
- (d) the promotion of navigation in the Damodar river and its tributaries
- (e) the promotion of afforestation and control of soil erosion in the Damodar Valley.

Irrigation and water-supply

13. Provision for irrigation and water-supply.—The Corporation may, with the approval of the Provincial Government concerned which shall not be unreasonably withheld, construct canals and distributaries and maintain and operate them:

Provided that the Provincial Government may, after giving reasonable notice and subject to the payment of fair compensation, take over the maintenance and operation of any such canal or distributary.

14. Rates for supply of water for irrigation.—(1) The Corporation may, after consultation with the Provincial Government concerned, determine and levy rates for the bulk supply of water to that Government for irrigation, and fix the minimum quantity of water which shall be made available for such purpose.

(2) The rates at which such water shall be supplied by the Provincial Government to the cultivators and other consumers shall be fixed by that Government after consultation with the Corporation.

15. Rates for supply of water for industrial and domestic purposes.—The Corporation may determine and levy rates for bulk supply and retail distribution of water for industrial and domestic purposes and specify the manner of recovery of such rates.

16. Free supply of water to those whose supply has been stopped or reduced.—If with a view to operating its schemes, the Corporation stops or reduces the supply

of water to any person for agricultural, industrial or domestic purposes which such person was, prior to such stoppage or reduction, enjoying by virtue of any prescriptive right, the Corporation shall arrange to make good such supply of water free of cost.

17. Construction of dam, etc., prohibited except with approval of the Corporation—Save as otherwise prescribed, no person shall construct, operate or maintain in the Damodar Valley any dam or other work or any installation for the extraction of water, unless the plans for the construction, operation or maintenance thereof have been submitted to and approved by the Corporation.

Supply of electrical energy

18. Supply of electrical energy by the Corporation.—Notwithstanding anything contained in the Indian Electricity Act, 1910 (IX of 1910), or any licence granted thereunder—

(a) the Corporation shall have the exclusive right to sell electrical energy to any consumer in the Damodar Valley, including a Provincial Government, where the energy is taken by the consumer at a pressure of 30,000 volts or more ;

(b) no person shall except with the permission of the Corporation, transmit electrical energy in the Damodar Valley at a pressure of 30,000 volts or more ;

(c) the Corporation may, by agreement with the Provincial Government concerned, sell electrical energy to any consumer in the Damodar Valley requiring the supply at a pressure lower than 30,000 volts ;

(d) the Provincial Government shall not, without the consent of the Corporation, generate or allow any person to generate any electrical energy at an installation having an aggregate capacity of more than 10,000 kilowatts in any part of the Damodar Valley lying to the north of a straight line drawn east to west passing through a point at latitude twenty-two degrees, fourteen minutes and forty-seven seconds and longitude eighty-seven degrees, fifty-one minutes and forty-two seconds except such portion of the town of Burdwan as may lie to the north of such straight line ;

(e) the Corporation may, with the approval of the Provincial Government concerned, extend its transmission system beyond the limits of the Damodar Valley.

19. Effect on existing licences.—(1) Where any licence granted under the Indian Electricity Act, 1910 (IX of 1910), becomes inoperative wholly or partly by virtue of the provisions of section 18, the licence shall be deemed to have been revoked or modified so as to be consistent with those provisions.

(2) Where a licence is deemed to have been revoked under sub-section (1), the Corporation shall purchase the undertaking of the licensee, and where a licence is modified under that sub-section, the Corporation shall, at the option of the licensee, either purchase the undertaking or pay fair compensation to the licensee.

(3) The purchase price or the amount of compensation payable by the Corporation under sub-section (2) shall be such as may be agreed between the Corporation and the licensee or, in the event of disagreement, as may be determined by arbitration.

20. Charges for supply of electrical energy.—The Corporation shall fix the schedule of charges for the supply of electrical energy, including the rates for bulk supply and retail distribution, and specify the manner of recovery of such charges :

Provided that the Corporation may in any contract for supply of electrical energy impose such terms and conditions including a retail rate schedule as it may deem necessary or desirable to encourage the use of electrical energy.

Other activities

21. Other activities of the Corporation.—(1) The Corporation may establish, maintain and operate laboratories, experimental and research stations and farms for conducting experiments and research for—

(a) utilising the water, electrical energy and other products in the most economical manner and for the maximum development of the Damodar Valley,

(b) determining the effect of its operations on the flow conditions in the Hooghly,

(c) making improvements in navigation conditions in the port of Calcutta, and

(d) carrying out any other function specified under section 12.

(2) The Corporation may set up its own planning, designing, construction and operating agencies, or make arrangements therefor with the participating Governments, local authorities or any person carrying on the business of an architect, an engineer or a contractor.

Powers

22. General powers of the Corporation.—(1) The Corporation shall have the power to do anything which may be necessary or expedient for the purposes of carrying out its functions under this Act.

(2) Without prejudice to the generality of the foregoing provision, such power shall include the power—

(i) to acquire and hold such movable and immovable property as it may deem necessary and to lease, sell or otherwise convey a y such property ;

(ii) to construct or cause to be constructed such dams, barrages, reservoirs, power houses, power structures, electrical transmission lines and sub-stations, navigation works, irrigation, navigation and drainage canals and such other works and structures as may be required ;

(iii) to prevent pollution of any water under its control and to withhold any water from any person who discharges into such water effluents which are harmful to water supply, irrigation or fish life ;

(iv) to stock its reservoirs or water courses with fish and to regulate or prohibit taking out fish from the water under its control ;

(v) to undertake resettlement of the population displaced by the dams, acquisition of land for reservoirs and protection of watersheds ;

(vi) to aid in the establishment of co-operative societies and other organisations for the better use of facilities made available by the Corporation ;

(vii) to undertake measures for the prevention of malaria.

23. Power to close roads and open spaces.—(1) The Corporation may, after giving notice to the persons concerned or to the public generally,—

(a) turn, divert or discontinue the public use of, or permanently close, any road vested in it or any part thereof, or

(b) discontinue the public use of, or permanently close, any open space vested in it or any part thereof.

(2) Whenever the Corporation discontinues the public use of, or permanently closes, any road or open space vested in it, the Corporation shall pay reasonable compensation to every person—

(a) who was entitled, otherwise than as a licensee, to use such road or open space or part thereof as a means of access, or

(b) whose immovable property was receiving air and light on account of such open space or part,

and who has suffered damage—

(i) in any case falling under clause (a) from such discontinuance or closure, and

(ii) in any case falling under clause (b) from the use to which the Corporation has put such open space or part.

(3) In determining the compensation payable to any person under sub-section (2), the Corporation may take into consideration a benefit accruing to such person from the construction, provision or improvement of any other road, or open space at or about the same time that the road or open space or part thereof, on account of which the compensation is to be paid, is discontinued or closed.

(4) When any road or open space or any part thereof, is permanently closed under sub-section (1), the Corporation may sell or lease such part of it as is not required for its purposes.

24. Powers under certain other enactments.—(1) Notwithstanding anything contained in the Acts specified in column one of Part I of the Schedule, the Corporation may carry out all or any of the functions and exercise all or any of the powers of a Provincial Government in the Damodar Valley under the provisions of such Acts specified in column two thereof against each item of column one.

(2) Notwithstanding anything contained in the Acts specified in column one of Part II of the Schedule, any officer authorised by the Corporation may carry out all or any of the functions and exercise all or any of the powers of a Canal Officer, Collector, or Forest Officer, as the case may be, in the Damodar Valley under the provisions of such Acts specified in column two thereof against each item of column one.

Co-operation and avoidance of submersion

25. Co-operation with other authorities to minimise inconvenience caused by submersion.—(1) The Corporation shall co-operate with the participating Governments, railway authorities and local authorities and bodies, with a view to minimising the inconvenience likely to be caused by the submersion of roads and communications and shall bear the cost of any realignment thereof rendered necessary by such submersion.

(2) The Corporation shall co-operate with the Provincial Governments and local authorities in all measures that may be necessary to minimise the inconvenience and discomfort to the population affected by such submergence, take special care in dealing with the problems of submergence of lands belonging to any particular community or religious sect, graveyards and places used for the purpose of religious worship and bear the cost of resettlement of such population.

26. Submersion of coal mines to be avoided by the Corporation.—The Corporation shall make every endeavour to avoid submersion of coal or mineral deposits and shall co-operate with the coal mining industry and the bodies set up by the participating Governments to ensure the maintenance of adequate supplies of sand for stowing purposes in coal mines and in other ways to minimise the inconvenience to the coal mining industry.

PART IV

FINANCE, ACCOUNTS AND AUDIT

27. Expenditure till the Corporation is established.—All expenditure incurred by the Central Government for and in connection with the establishment of the Corporation up to the date of its establishment shall be treated as the capital provided by the Central Government to the Corporation and such capital shall be adjusted between the participating Governments in accordance with the provisions of sections 30 to 35.

28. Vesting of property in the Corporation.—All property acquired and works constructed for the purposes of the Damodar Valley Scheme before the establishment of the Corporation shall vest in the Corporation and all income derived and expenses incurred in this behalf shall be brought into the books of the Corporation.

29. Fund of the Corporation.—(1) The Corporation shall have its own Fund and all receipts of the Corporation shall be carried thereto and all payments by the Corporation shall be made therefrom.

(2) Except as may otherwise be directed by the Central Government, all moneys belonging to that Fund shall be deposited in the Reserve Bank of India or the Imperial Bank of India or invested in such securities as may be approved by the Central Government.

30. Liabilities of participating Governments to provide capital to the Corporation.—The participating Governments shall, as hereinafter specified, provide the entire capital required by the Corporation for the completion of any project undertaken by it.

31. Payment by participating Government on specified date.—Each participating Government shall provide its share of the capital on the dates specified by the Corporation and if any Government fails to provide such share on such dates the Corporation may raise loan to make up the deficit at the cost of the Government concerned.

32. Allocation of expenditure chargeable to project on main objects.—The total capital expenditure chargeable to a project shall be allocated between the three main objects, namely, irrigation, power and flood control as follows, namely:—

(1) expenditure solely attributable to any of these objects, including a proportionate share of overhead and general charges, shall be charged to that object, and

(2) expenditure common to two or more objects, including a proportionate share of overhead and general charges, shall be allocated to each of such objects in proportion to the expenditure which, according to the estimate of the Corporation, would have been incurred in constructing a separate structure solely for that object, less any amount determined under clause (1) in respect of that object.

33. Capital for irrigation.—The total amount of capital allocated to irrigation shall be shared between the Provincial Governments as follows, namely:—

(1) the Government concerned shall be responsible for the capital cost of the works constructed exclusively for irrigation in its Province; and

(2) the capital cost under irrigation for both the Provinces of Bihar and West Bengal shall be shared by the Provincial Governments in the proportion of their guaranteed annual off-takes of water for agricultural purposes:

Provided that the divisible capital cost under this clause shall be provisionally shared between them in accordance with their previously declared intentions regarding their respective guaranteed off-takes and any payments made accordingly shall be adjusted after the determination of the guaranteed off-takes.

34. Capital for power.—The total amount of capital allocated to power shall be shared equally between the three participating Governments.

35. Capital for flood control.—The total amount of capital up to fourteen crores of rupees allocated to flood control shall be shared equally between the Central Government and the Provincial Government of West Bengal and any amount in excess thereof shall be paid only by the Provincial Government of West Bengal.

36. Disposal of profits and deficits.—(1) Subject to the provisions of sub-section (2) of section 30, the net profit, if any, attributable to each of the three main objects, namely, irrigation, power and flood control, shall be credited to the participating Governments in proportion to their respective shares in the total capital cost attributed to that object.

(2) The net deficit in respect of any of the objects shall be made good by the Governments concerned in the proportion specified in sub-section (1):

Provided that the net deficit in respect of flood control shall be made good entirely by the Provincial Government of West Bengal and the Central Government shall have no share in such deficit.

37. Payment of interest.—The Corporation shall pay interest on the amount of capital provided by each participating Government at such rate as may, from time to time, be fixed by the Central Government.

38. Interest charges and other expenses to be added to and receipts taken for reduction of capital cost.—For such period, not exceeding fifteen years, as the Corporation runs in deficit the interest charges and other expenses shall be added to the capital cost and all receipts shall be taken in reduction of such capital cost.

39. Provision for depreciation and reserve and other funds.—(1) The Corporation shall make provision for depreciation and for reserve and other funds at such rates and on such terms as may be specified by the Auditor General of India in consultation with the Central Government.

(2) The net profit for the purposes of section 36 shall be determined after such provision has been made.

40. Corporation's share in betterment levy by Provincial Governments.—In the event of any betterment levy being imposed by a Provincial Government, the proportionate proceeds thereof in so far as they are attributable to the operations of the Corporation shall be credited to the Corporation.

41. Borrowing of money.—The Corporation may, with the approval of the Central Government, borrow money in the open market or otherwise for the purposes of carrying out its functions under this Act.

42. Exemption of the Corporation and participating Governments from Central taxation.—Notwithstanding anything contained in any other law for the time being in force, the Corporation shall be exempted from liability to pay any tax on income, corporation tax or any other like tax levied by the Central Government and the participating Governments shall also be exempt from liability to pay any such tax in respect of any profits distributed to them by the Corporation.

43. Budget.—(1) The Corporation shall in October each year prepare in such form as may be prescribed a budget for the next financial year showing the estimated receipts and expenditure and the amounts which would be required from each of the three participating Governments during that financial year.

(2) Printed copies of the budget shall be made available to each of the three participating Governments by the 15th day of November each year.

44. Annual Report.—(1) The Corporation shall prepare, in such form as may be prescribed, an annual report within six months after the end of each financial year giving a true and faithful account of its activities during the previous financial year, with particular reference to—

- (i) irrigation ;
- (ii) water supply ;
- (iii) electrical energy ;
- (iv) flood control ;
- (v) navigation ;
- (vi) afforestation ;
- (vii) soil erosion ;
- (viii) use of lands ;
- (ix) resettlement of displaced population ;
- (x) sanitation and public health measures ;
- (xi) economic and social welfare of the people living in the area of operation.

(2) The annual report shall also give a true and faithful account of the income and expenditure during the previous financial year, the net amounts attributable to each of the three main objects and the distribution of the capital cost between the three participating Governments and show the progressive totals from the inception of the Corporation and the up to date financial results.

(3) The payments provisionally made by each of the three participating Governments on the basis of the budget estimates shall be adjusted as soon as possible in accordance with the allocation made in the annual report.

(4) Printed copies of the annual report shall be made available to each of the three participating Governments by the 15th day of October each year.

45. Other annual financial statements.—(1) The Corporation shall also prepare such other annual financial statements in such form and by such dates as may be prescribed.

(2) Printed copies of each such annual financial statement shall be made available to each of the three participating Governments by such date as may be prescribed.

46. Accounts and Audit.—The accounts of the Corporation shall be maintained and audited in such manner as may be prescribed.

PART V

MISCELLANEOUS

47. Directions by the Central Government.—(1) In discharge of its functions the Corporation shall be guided by such instructions on questions of policy as may be given to it by the Central Government.

(2) If any dispute arises between the Central Government and the Corporation as to whether a question is or is not a question of policy, the decision of the Central Government shall be final.

48. Disputes between the Corporation and Governments.—Save as otherwise expressly provided in this Act, any dispute between the Corporation and any participating Government regarding any matter covered by this Act or touching or arising out of it shall be referred to arbitration by an arbitrator appointed by the Chief Justice of India, whose decision shall be final and binding on all the parties concerned.

49. Compulsory acquisition of land for the Corporation.—Any land required by the Corporation for carrying out its functions under this Act shall be deemed to be needed for a public purpose and such land shall be acquired for the Corporation as if the provisions of Part VII of the Land Acquisition Act, 1894 (I of 1894) were applicable to it and the Corporation were a company within the meaning of clause (e) of section 3 of the said Act.

50. Application of certain provisions of the Indian Forest Act, 1927, to the forests of the Corporation.—The acts prohibited in respect of a reserved forest under section 26 of the Indian Forest Act, 1927 (XVI of 1927) shall be deemed to be prohibited in respect of any forest owned or under the supervision or control of the Corporation and all offences in respect of such forest shall be punishable under the said Act as if they were committed in respect of a reserved forest.

51. Penalty.—Whoever contravenes any provision of this Act or any rule made thereunder shall be punished with imprisonment for a term which may extend to six months or with fine or with both.

52. Removal of a member.—(1) The Central Government may remove from the Corporation any member who in its opinion—

(a) refuses to act,

(b) has become incapable of acting,

(c) has so abused his position as a member as to render his continuance on the Corporation detrimental to the interest of the public, or

(d) is otherwise unsuitable to continue as member.

(2) The Central Government may suspend any member pending an enquiry against him.

(3) No order of removal under this section shall be passed unless the member concerned has been given an opportunity to submit his explanation to the Central Government and when such order is passed the seat of the member removed shall be declared vacant and another member may be appointed under section 4 to fill up the vacancy.

(4) A member who has once been removed shall not be eligible for reappointment to the Corporation.

(5) The Central Government may declare void any transaction in connection with which a member has been removed under sub-section (1).

53. Procedure for prosecution.—No Court shall take cognisance of an offence under this Act except on the complaint of an officer of the Corporation authorised by it in this behalf.

54. Power of entry.—Any officer or servant of the Corporation generally or specially authorised by the Corporation may at all reasonable times enter upon any land or premises and there do such things as may be reasonably necessary for the purpose of lawfully carrying out any of its works or of making any survey, examination or investigation preliminary or incidental to the exercise of powers or the performance of functions by the Corporation under this Act.

55. Officers under Act to be public servants.—All members, officers and servants of the Corporation, whether appointed by the Central Government or the Corporation, shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act or any rules made thereunder, to be public servants within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

56. Bar of legal proceeding.—No suit, prosecution, or legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule made thereunder.

57. Effect of other laws.—The provisions of this Act or any rule made thereunder shall have effect notwithstanding anything contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

58. Power to make rules.—The Central Government may, by notification in the official Gazette, make rules to provide for all or any of the following matters, namely :—

(1) the salaries and allowances and conditions of service of members, the secretary and the treasurer ;

(2) the dams or other works or the installations which may be constructed without the approval of the Corporation ;

(3) the forms of the budget, the annual report and the annual financial statements and the dates by which copies of the annual financial statements shall be made available to the participating Governments ;

(4) the manner in which the accounts of the Corporation shall be maintained and audited.

59. Power to make regulations.—(1) The Corporation may, by notification in the official Gazette, make regulations for carrying out its functions under this Act.

In particular and without prejudice to the generality of the foregoing power in such regulation the Corporation may make provision for—

(a) making of appointments and promotions of its officers and servants

(b) specifying other conditions of service of its officers and servants ;

(c) specifying the functions and the duties of the treasurer ;

(d) specifying the manner in which water rates and charges for electrical energy shall be recovered ;

(e) preventing the pollution of water under its control ;

(f) regulating the taking out of fish from the water under its control ;

(g) regulating its proceedings and business ;

(h) prescribing punishment for breach of any regulation.

(3) All regulations made under sub-sections (1) and (2) shall, as soon as possible be published also in the official Gazettes of the Provincial Governments.

THE SCHEDULE

(See section 24)

PART I

Acts	Provisions of the Acts specified in column (1)
(1)	(2)
1. The Canals Act, 1864 (Ben. Act V of 1864)	Section 6 (Power of Provincial Government to fix and alter rates of tolls). Section 8 (Power of Provincial Government to appoint persons to collect tolls who may farm collection).
2. The Indian Forest Act, 1927 (XVI of 1927)	Section 35 (Protection of forests for special purposes). Section 36 (Power to assume management of forests).

PART II

Acts.	Provisions of the Acts specified in column (1)
(1)	(2)
1. The Bengal Irrigation Act, 1876 (Ben. Act III of 1876).	Part III (Power of the maintenance of canals). Section 41 of Part IV (Power of Canal Officer to issue notice to person causing obstruction). Section 42 of Part IV (Power of Canal Officer to cause obstructions to be removed).
2. The Bengal Embankment Act, 1882 (Ben. Act II of 1882).	Part II (Powers of Collector and procedure thereon). Part III (Powers of Collector in cases of imminent danger to life or property).
3. Indian Forest Act, 1927 (XVI of 1927)	Section 36 (Power to assume management of forests).

STATEMENT OF OBJECTS AND REASONS

The Damodar river rises in western Bihar and flows generally in a south-easterly direction into Bengal. It is a seasonal river having a large flow of water during the rains which, apart from being generally wasted, at times causes great damage to life and property. It is now proposed to harness the water of this river and some of its tributaries and utilise it in multiple development of the Damodar Valley and the adjoining area.

2. This Bill seeks to set up a Corporation, called the Damodar Valley Corporation on the lines of the Tennessee Valley Authority in the U.S.A. It will be an autonomous body within the framework of the enactment. Its objects, constitution and powers are laid down in the Bill. Briefly, its main function will be to control flood in the Damodar, generate electric power for distribution and provide water for irrigation and other purposes. In addition, the Corporation will endeavour to promote economic development of the Damodar Valley and the adjoining areas. It will consist of three members including the chairman. These three members and the secretary and treasurer will be appointed by the Central Government. The Corporation will have power to acquire land and construct or cause to be constructed such dams, barrages, reservoirs, power houses and power structures, electrical transmission lines, irrigation and navigation works as may be necessary. The capital required by the Corporation will be provided by the Central Government and the Governments of Bihar and West Bengal. The profits and losses will be distributable between these three Governments in certain agreed proportions.

3. The provisions of this Bill are designed to give effect to the broad outlines of the agreement reached between the three Governments concerned.

NEW DELHI;

N. V. GADGIL.

The 19th November, 1947.

Notes on Clauses

Clauses 4—7.—The chairman and the two members of the Corporation will be appointed by the Central Government after consultation with the Provincial Governments. The members will be whole-time servants of the Corporation and their remuneration and other conditions of service will be prescribed by the Central Government under their rule-making power.

The secretary and the treasurer will also be appointed by the Central Government and the conditions of their service will also be prescribed by the Central Government under their rule-making power.

Clause 11.—The jurisdiction of the Corporation will be the Damodar Valley and such other areas as may be notified by the Central Government after consultation with the Provincial Governments as the area of operation.

Clause 12.—This clause deals with the functions of the Corporation. The three main functions will be flood control, irrigation and generation of power, and through these the Corporation will endeavour to promote the agricultural, industrial, economic and public health development of the area within its operation.

Clause 14.—The bulk supply rate of water for irrigation is to be fixed by the Corporation after consultation with the Provincial Governments concerned. Similarly, the Provincial Governments will fix the rate of water supply to the cultivators after consultation with the Corporation. The object is that the rates fixed are reasonable and do not become a source of undue profit.

Clause 18.—The Corporation shall have the exclusive right to generate, transmit and sell electrical energy in the Damodar Valley at a pressure of 30,000 volt or more. In sub-clause (d) an exception has, however, been made whereby the Provincial Government (West Bengal) may generate electrical energy within the Damodar Valley up to an aggregate capacity of 10,000 kilowatts in the southernmost part of the area defined under the sub-clause. This area has been fixed in consultation with the West Bengal Government.

Clause 19.—Existing licenses in conflict with clause 18 are to be revoked. There is provision for the Corporation either buying the undertaking or giving adequate compensation.

Clause 21.—This clause names a few of the other activities of the Corporation incidental to the functions of the Corporation.

Clauses 22—24.—Define certain powers of the Corporation which are necessary for its efficient functioning.

Clauses 25 and 26.—Specific directions are being given to the Corporation to undertake by its own activities and in co-operation with the participating Governments, to cause as little inconvenience and discomfort to the population affected by submergence and to avoid, as far as possible, submersion of coal and other mineral deposits and to secure maintenance of adequate supplies of sand for stowing purposes in the coalmines.

Clause 27.—All expenditure incurred by the Central Government in connection with the establishment of the Corporation up to the date of its establishment is to be treated as capital of the Corporation provided by the Central Government.

Clause 32.—Under this clause the way the allocation of capital expenditure, chargeable to a project, between irrigation, power and flood control is to be made, has been laid down. It follows the principle adopted by the T. V. A. and has been accepted by the three Governments concerned.

Clauses 33—35.—The capital for irrigation is to be shared between the two Provincial Governments and clause 33 lays down the manner in which this should be done. The capital for power will be shared equally between the three participating Governments. The capital for flood control will be shared by the Central Government and the Government of West Bengal—the former's contribution being limited to Rs. 7 crores. The intention is that the entire burden on this unproductive portion of the project should not fall on the Government of West Bengal alone.

Clause 38.—It is not expected that the project would yield adequate return in the first 15 years and it has therefore been provided that the interest charges and all other expenses within this period shall be added to the capital cost.

Clause 40.—The development of the Damodar Valley will add considerably to the value of land and property in the area and it is felt that in the event of a betterment levy being imposed by a Provincial Government a share thereof should go to the Corporation.

Clause 42.—This is important but self-explanatory.

Clauses 43–46.—Deal with audit, accounts and reports. Specific directions are being given on these points under these clauses.

Clause 47.—While giving autonomy to the Corporation within the bounds laid down under the Bill, the Central Government are retaining power to guide the Corporation by instructions on questions of policy.

Clause 48.—In keeping with this autonomy, provision is made for arbitration in any dispute between the Corporation and any of the participating Governments.

Clause 52.—This clause lays down how a member can be removed.

Clause 58.—The Central Government are being given power to make rules on specific items.

Clause 59.—This clause gives the Corporation power to make regulations for carrying out its functions.

The following Bills were introduced in the Constituent Assembly of India (Legislative) on the 6th December, 1947:—

L. A. BILL No. 74 OF 1947.

A Bill to repeal or amend certain enactments.

WHEREAS it is expedient that the enactments specified in the Schedule which are spent or have otherwise become unnecessary, or have ceased to be in force otherwise than by expressed specific repeal, should be expressly and specifically repealed ;

AND WHEREAS it is expedient that certain formal amendments should be made in the Indian Income-tax Act, 1922 (XI of 1922) ;

It is hereby enacted as follows :—

1. **Short title.**—This Act may be called the Repealing and Amending Act, 1947

2. **Repeal of certain enactments.**—The enactments specified in the Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

3. **Savings.**—The repeal by this Act of any enactment shall not affect any other enactment in which such enactment has been applied, incorporated or referred to ;

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered or any right, title, obligation or liability acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand or any indemnity already granted, or the proof of any past act or thing ;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that they respectively may have been in any manner affirmed, recognised or derived by, in or from any enactment hereby repealed ;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force, or any provision of the Letters Patent of any High Court which under any such enactment ceased to have effect.

4. **Amendment of section 10 of Act XI of 1942.**—In section 10 of the Indian Income-tax Act, 1922,—

(a) in clause (b) of the proviso to clause (vi) of sub-section (2) for the words, brackets and letter “ clause (a) of ” the words, brackets and letter “ clause (b) of ” shall be substituted ; and

(b) in sub-section (4) for the word, brackets and figure “ clause (xi) ”, wherever they occur, the word, brackets and figure “ clause (xv) ” shall be substituted.

THE SCHEDULE
(See section 2.)

Acts of the Indian Legislature.

1920	XL	The Aligarh Muslim University Act, 1920	The provisos to sub-section (3) of section 30.
1924	II	The Cantonments Act, 1924	The second proviso to sub-section (1) of section 15.
1927	XVI	The Indian Forest Act, 1927	Section 86 and the Schedule.
1934	II	The Reserve Bank of India Act, 1934	Clause (7) of section 17.

Acts of the Central Legislature—contd.

1939	XXXV	The Defence of India Act, 1939	The whole
1940	III	The Royal Indian Navy (Extension of Service) Act, 1940	The whole
1940	VII	The Reserve Bank of India (Closing of Annual Accounts) Act, 1940	The whole
1940	XXXVII	The War Donations and Investments (Companies) Act, 1940	The whole
1942	I	The Workmen's Compensation (Amendment) Act, 1942.	The whole
1942	II	The Indian Merchant Shipping (Amendment) Act, 1942	The whole
1942	III	The Indus Vessels (Amendment) Act, 1942	The whole
1942	IV	The Indian Medical Council (Amendment) Act, 1942	The whole
1942	V	The Indian Boilers (Amendment) Act, 1942	The whole
1942	VII	The Coffee Market Expansion Act, 1942	Section 80
1942	VIII	The Indian Penal Code (Amendment) Act, 1942	The whole
1942	IX	The Cotton Ginning and Pressing Factories (Amendment) Act, 1942	The whole
1942	XI	The Protective Duties Continuation Act, 1942	The whole
1942	XV	The Cantonments (Amendment) Act, 1942	The whole
1942	XVI	The Indian Limitation (Amendment) Act, 1942	The whole
1942	XVII	The Indian Companies (Amendment) Act, 1942	The whole
1942	XX	The Motor Vehicles (Amendment) Act, 1942	The whole
1942	XXI	The Indian Companies (Second Amendment) Act, 1942	The whole
1942	XXII	The Indian Rubber Control (Temporary Amendment) Act, 1942	The whole
1942	XXIII	The Code of Civil Procedure (Amendment) Act, 1942	The whole
1942	XXIV	The Code of Civil Procedure (Second Amendment) Act, 1942	The whole
1942	XXV	The Repealing and Amending Act, 1942	The whole
1943	I	The Motor Vehicles (Amendment) Act, 1943	The whole
1943	II	The Government Savings Banks (Amendment) Act, 1943	The whole
1943	III	The Indian Railways (Amendment) Act, 1943	The whole

1943	IV	The Aligarh Muslim University (Amendment) Act, 1943	The whole
1943	V	The Code of Civil Procedure (Amendment) Act, 1943	The whole
1943	VI	The Indian Penal Code (Amendment) Act, 1943	The whole
1943	VII	The Coffee Market Expansion (Amendment) Act, 1943	The whole
1943	XII	The Indian Tea Control (Amendment) Act, 1943	The whole
<i>Acts of the Central Legislature—contd.</i>			
1943	XIV	The Indian Army and Air Force (Military Prisons and Detention Barracks) Act, 1943	The whole
1943	XV	The Trade Marks (Amendment) Act, 1943	The whole
1943	XVI	The Muslim Personal Law (<i>Shariat</i>) Application (Amendment) Act, 1943	The whole
1943	XVII	The Indian Boilers (Amendment) Act, 1943	The whole
1943	XVIII	The Mines Maternity Benefit (Amendment) Act, 1943	The whole
1943	XIX	The Motor Vehicles (Drivers) Amendment Act, 1943	The whole
1943	XX	The Agricultural Produce (Grading and Marketing) Amendment Act, 1943	The whole
1943	XXI	The Indian Army and Indian Air Force (Amendment) Act, 1943	The whole
1943	XXII	The Reciprocity (Amendment) Act, 1943	The whole
1943	XXIV	The Delhi University (Amendment) Act, 1943	The whole
1943	XXV	The Victoria Memorial (Amendment) Act, 1943	The whole
1943	XXVI	The Criminal Procedure Amendment Act, 1943	The whole
1943	XXVII	The Code of Criminal Procedure (Amendment) Act, 1943	The whole
1943	XXVIII	The Code of Criminal Procedure (Second Amendment) Act, 1943	The whole
1943	XXIX	The Indian Tea Control (Second Amendment) Act, 1943	The whole
1943	XXX	The Indian Companies (Amendment) Act, 1943	The whole
1944	I	The Central Excises and Salt Act, 1944	Section 39 and the Third Schedule.
1944	II	The Coffee Market Expansion (Amendment) Act, 1944	The whole
1944	III	The Coal Mines Safety (Stowing) Amendment Act, 1944	The whole
1944	IV	The Indian Companies (Amendment) Act, 1944	The whole
1944	V	The Indian Aircraft (Amendment) Act, 1944	The whole
1944	VI	The Transfer of Property (Amendment) Act, 1944	The whole
1944	VII	The Insurance (Amendment) Act, 1944	The whole
1944	VIII	The Cantonments (Amendment) Act, 1944	The whole
1944	IX	The Indian Merchant Shipping (Amendment) Act, 1944	The whole
1944	XI	The Indian Income-tax (Amendment) Act, 1944	The whole
1944	XII	The Delhi Muslim Wakfs (Amendment) Act, 1944	The whole

1944	XIII	The Protective Duties Continuation Act, 1944	The whole
1944	XV	The Indian Patents and Designs (Temporary Amendment) Act, 1944	The whole
1944	XVI	The Coffee Market Expansion (Second Amendment) Act, 1944	The whole
1944	XVII	The Delhi Joint Water and Sewage Board (Amendment) Act, 1944	The whole
1945	I	The Indian Tea Control (Amendment) Act, 1945	The whole
<i>Acts of the Central Legislature—continued.</i>			
1945	II	The Code of Criminal Procedure (Amendment) Act, 1945	The whole
1945	IV	The Indian Companies (Amendment) Act, 1945	The whole
1945	V	The Indian Merchandise Marks (Amendment) Supplementary Act, 1945	The whole
1945	VI	The Repealing and Amending Act, 1945	The whole
1945	VII	The Indian Army (Amendment) Act, 1945	The whole
1945	VIII	The Indian Air Force (Amendment) Act, 1945	The whole
1945	IX	The Indian Patents and Designs (Amendment) Act, 1945	The whole
1945	X	The Mines Maternity Benefit (Amendment) Act, 1945	The whole
1945	XI	The Aligarh Muslim University (Amendment) Act, 1945	The whole

Ordinances made by the Governor General.

1940	II	The National Service (Technical Personnel) Ordinance, 1940	The whole
1940	VIII	The Civil Guards Ordinance, 1940	The whole
1942	X	The Civil Pioneer Force Ordinance, 1942	The whole
1942	XIII	The Women's Auxiliary Corps Ordinance, 1942	The whole
1942	XV	The Prisoners (Amendment) Ordinance, 1942	The whole
1942	XXII	The Deputy Commander-in-Chief (Powers) Ordinance, 1942	The whole
1942	XXXIII	The Civil Services (Conditions of Service) Ordinance, 1942	The whole
1942	LIII	The Railways (Employment of Military Personnel) Ordinance, 1942	The whole
1942	LVI	The Allied Forces Ordinance, 1942	The whole
1942	LVII	The Allied Forces (United States of America) Ordinance, 1942	The whole
1942	LXII	The Indian Legislature (Prevention of Disqualification) Ordinance, 1942	The whole
1943	I	The Enemy Agents Ordinance, 1943	The whole
1943	VI	The Indian Standard Time (Interpretation of References) Ordinance, 1943	The whole
1943	XIII	The Essential Services (Telephone Employees) Ordinance, 1943	The whole
1943	XVII	The Royal Indian Navy (Powers of Command) Ordinance, 1943	The whole
1943	XXI	The Parole Centres Ordinance, 1943	The whole
1943	XXII	The Special Police Establishment (War Department) Ordinance, 1943	The whole

1943	XXIV	The Discipline of Seamen Ordinance, 1943	The whole
1943	XXVIII	The Allied Forces (Exemption from Local Taxation) Ordinance, 1943	The whole
1943	XXXI	The Factories (Control of Dismantling) Ordinance, 1943	The whole
1943	XXXIII	The Military Stores (Unlawful Possession) Ordinance, 1943	The whole
<i>Ordinances made by the Governor General—contd.</i>			
1943	XXXV	The Hoarding and Profiteering Prevention Ordinance, 1943	The whole
1943	XLI	The Sugar (Temporary Excise Duty) Ordinance, 1943	The whole
1944	IV	The Military Safety (Powers of Detention) Ordinance, 1944	The whole
1944	XX	The Service in Ships (Requisition) Ordinance, 1944	The whole
1944	XXXI	The Indian Army (Second Amendment) Ordinance, 1944	So much as is not repealed
1944	XXXV	The Defence of India (Second Amendment) Ordinance, 1944	The whole
1944	L	The Sugar (Temporary Excise Duty) Ordinance, 1944	The whole
1945	I	The Factories (Control of Dismantling) Amendment Ordinance, 1945	The whole
1945	II	The National Service (European British Subjects) Amendment Ordinance, 1945	The whole
1945	III	The Delhi Rent Control (Amendment) Ordinance, 1945	The whole
1945	IV	The Military Safety (Powers of Detention) Amendment Ordinance, 1945	The whole
1945	VIII	The Essential Services (Dibru Sadiya and Colliery Branch Railways) Ordinance, 1945	The whole
1945	IX	The Indian Income-tax (Amendment) Ordinance, 1945	The whole
1945	XI	The Provincial Debt Laws (Temporary Validation) Ordinance, 1945	The whole
1945	XII	The Criminal Law (1943 Amendment) Amending Ordinance, 1945	The whole
1945	XIV	The Criminal Law (1944 Amendment) Amending Ordinance, 1945	The whole
1945	XVI	The Income-tax and Excess Profits Tax (Validity of Notices) Amendment Ordinance, 1945	The whole
1945	XVII	The Mines (Amendment) Ordinance, 1945	The whole
1945	XVIII	The Explosives (Amendment) Ordinance, 1945	The whole
1945	XX	The Excess Profits Tax (Amendment) Ordinance, 1945	The whole
1945	XXI	The Refugee Camps Ordinance, 1945	The whole
1945	XXII	The Criminal Law (1943 Amendment) Second Amending Ordinance, 1945.	The whole.
1945	XXV	The Defence of India (Amendment) Ordinance, 1945.	The whole.
1945	XXVII	The Civil Pioneer Force (Amendment) Ordinance, 1945.	The whole.
1945	XXXI	The Defence of India (Second Amendment) Ordinance, 1945.	The whole.

Ordinances made by the Governor General—consolid.

1945	XXXV	The Defence of India (Third Amendment) Ordinance, 1945.	The whole.
1945	XXXVI	The Armed Forces (Special Powers) Amendment Ordinance, 1945.	The whole.
1945	XXXVII	The Indian Army (Amendment) Ordinance, 1945.	The whole.
1945	XXXVIII	The National Service (European British Subjects) Amendment Ordinance, 1945.	The whole.
1945	XXXIX	The Bills of Exchange Ordinance, 1945 . . .	The whole
1945	XLI	The War Injuries (Compensation Insurance) Amendment Ordinance, 1945.	The whole.
1945	XLII	The Indian Army and Indian Air Force (Amendment) Ordinance, 1945.	The whole.
1945	XLIII	The Hoarding and Profiteering Prevention (Amendment) Ordinance, 1945.	The whole.
1945	XLIV	The Defence of India Reserve (Disbandment) Ordinance, 1945.	The whole.
1945	XLV	The Defence of India (Fourth Amendment) Ordinance, 1945.	The whole.
1945	XLVIII	The Indian Army (Second Amendment) Ordinance, 1945.	The whole.
1946	XI	The Defence of India (Amendment) Ordinance, 1946.	The whole.
1946	XII	The Defence of India (Second Amendment) Ordinance, 1946.	The whole.

STATEMENT OF OBJECTS AND REASONS

The Bill is intended to remove from the Statute Book certain Acts and Ordinances or portions of them which have either ceased to have effect or ceased to be in force. Although the enactments and Ordinances which are either spent or are of a purely amending nature can now be removed from the Statute Book by virtue of section 6A of the General Clauses Act, 1897, yet clause 3 of the Bill contains the precautionary provisions which it is usual to include in all Bills of this kind. Clause 4 of the Bill corrects certain small errors detected in the Indian Income-tax Act, 1922.

B. R. AMBEDKAR.

NEW DELHI,
The 27th November 1947.

L. A. BILL* No 75 of 1947.

A Bill further to amend the Indian Tariff Act, 1934.

WHEREAS it is expedient further to amend the Indian Tariff Act, 1934 (XXXII of 1934), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. **Short title and commencement.**—(1) This Act may be called the Indian Tariff (Second Amendment) Act, 1947.

(2) It shall come into force at once, but clauses (h) and (i) of sub-section (1) of section 2, and sub-section (2) of section 2 in its application

*In pursuance of clause (a) of sub-section (1) of section 37 of the Government of India Act, 1935, as adapted by the India (Provisional Constitution) Order, 1947, His Excellency the Governor-General has recommended the introduction and the moving of the Bill.

to Item 71 (8) of the First Schedule to the Indian Tariff Act, 1934, shall take effect only from such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

2. Amendment of First Schedule, Act XXXII of 1934.—(1) In the First Schedule to the Indian Tariff Act, 1934,—

(a) in Item No. 8, in the second column, the words “dried, salted” shall be omitted;

(b) after Item No. 8(1) the following items shall be inserted, namely :—

“8 (2)	FRUITS, dried (salted and all other kinds) not otherwise specified.	Preferential revenue.	36 per cent. <i>ad valorem</i> .	..	24 per cent. <i>ad valorem</i> .	..
8 (3)	FRUITS, candied and crystallised.	Protective .	80 per cent. <i>ad valorem</i>	December 31st, 1948.”

(c) in Item No. 20, in the second column, the words “jams, jellies” shall be omitted and after the word “sauces” the word “ketchups” shall be inserted;

(d) for Item No. 20(1) the following item shall be substituted, namely :—

“20 (1)	FRUIT JUICES, Squashes, Cordials and Syrups— (a) manufactured in a British Colony, (b) not manufactured in a British Colony.	Protective . Protective .	27 per cent. <i>ad valorem</i> . 40 per cent. <i>ad valorem</i>	December 31st, 1948. December 31st, 1948.”;
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(e) in Item No. 20(2), in the second column, the words “FRUITS and” shall be omitted;

(f) after Item No. 20(2) the following items shall be inserted, namely :—

“20 (3)	FRUITS, canned or bottled— (a) manufactured in a British Colony, (b) not manufactured in a British Colony.	Protective . Protective .	40 per cent. <i>ad valorem</i> . 60 per cent. <i>ad valorem</i>	December 31st, 1948. December 31st, 1948.
20 (4)	JAMS, JELLIES and MARMALADES, canned or bottled.	Protective .	80 per cent. <i>ad valorem</i>	December 31st, 1948.”;

(g) in Item No. 30(10), in the second column, after the word “paper” the words “when imported as stores apart from machinery” shall be inserted;

(h) after Item 71(7), the following item shall be inserted, namely :—

71 (8)	G R I N D I N G WHEELS AND SEGMENTS.	Protective .	50 per cent. <i>ad valorem</i>	December 31st, 1950.”;
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(i) in Item No. 72(3), in the second column, after the words “COMPONENT PARTS OF MACHINERY”, the words and brackets “(excluding GRINDING WHEELS AND SEGMENTS)” shall be inserted.

(2) The additional duties of customs referred to in section 4 of the Indian Finance Act, 1947 (XX of 1947), shall not be levied or collected on the goods comprised in Items Nos. 8(2), 8(3), 20(1), 20(3), 20(4) and 71(8) of the aforesaid Schedule.

STATEMENT OF OBJECTS AND REASONS

The object of the Bill is to give protection to (1) grinding wheels and (2) preserved fruits industries, in accordance with the decisions announced by the Government of India in the late Department of Commerce Resolutions on the Tariff Board's Reports on those industries Nos. 218-T(77)/46, dated the 10th May, 1947 and 218-T(33)/47, dated the 27th May, 1947.

2. It is also proposed to make a provision in the Bill to rectify the omission which occurred in item No. 30(10) in the First Schedule to the Indian Tariff Act, 1934, inserted by the Indian Tariff (Amendment) Act, 1947 XXV of 1947.

NEW DELHI ;

N. V. GADGIL.

The 25th November, 1947.

L. A. BILL No. 70 OF 1947.

A Bill to enable certain special powers to be conferred upon officers of the armed forces in disturbed areas.

WHEREAS it is expedient to enable certain special powers to be conferred upon officers of the armed forces in disturbed areas;

It is hereby enacted as follows :—

1. Short title, extent and duration.—(1) This Act may be called the Armed Forces (Special Powers) Act, 1947.

(2) It extends to all the Provinces of India.

(3) It shall remain in force only for a period of one year :

Provided that the Central Government may, by notification in the official Gazette, direct that it shall remain in force for a further period not exceeding one year.

2. Special powers of officers of military or air forces.—Any commissioned officer warrant officer or non-commissioned officer of His Majesty's military or air force may, in any area in respect of which a proclamation under sub-section (1) of section 15 of the Police Act, 1861 (V of 1861) is for the time being in force or which is for the time being by any form of words declared by the Provincial Government under any other law to be a disturbed or dangerous area,—

(a) if in his opinion it is necessary so to do for the maintenance of public order, after giving such warning, if any, as he may consider necessary, fire upon or otherwise use force, even to the causing of death, against any person who is acting in contravention of any law or order for the time being in force in the said area prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons ;

(b) arrest without warrant any person who has committed a cognizable offence, or against whom a reasonable suspicion exists that he has committed or is about to commit a cognizable offence ;

(c) enter and search, without warrant, any premises to make any such arrest as aforesaid, or to recover any person believed to be wrongfully restrained or confined, or any property reasonably suspected to be stolen property, or any arms believed to be unlawfully kept, in such premises.

3. Protection of persons acting under this Ordinance.—No prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction of the Central Government, against any person in respect of anything done or purporting to be done in exercise of the powers conferred by section 2.

4. Repeal of certain Ordinances.—The Bengal Disturbed Areas (Special Powers of Armed Forces) Ordinance, 1947 (XI of 1947), the Assam Disturbed Areas (Special Powers of Armed Forces) Ordinance, 1947 (XIV of 1947), the East Punjab and Delhi Disturbed Areas (Special Powers of Armed Forces) Ordinance, 1947 (XVII of 1947), and the United Provinces Disturbed Areas (Special Powers of Armed Forces) Ordinance, 1947 (XXII of 1947) are hereby repealed.

5. Effect of expiry of Act.—On the expiry of this Act section 6 of the General Clauses Act, 1897 (X of 1897) shall apply as if this Act were then repealed by a Central Act.



STATEMENT OF OBJECTS AND REASONS

Certain special powers have been conferred on the Armed Forces in certain disturbed areas of the country to enable them more efficiently to discharge their duties in connection with the maintenance of law and order. These powers have been conferred by means of Ordinances, a separate Ordinance being issued in respect of each Province in which the need for such special powers is felt.

It is desirable to replace these Ordinances by an Act which would apply to all the Provinces of India. This is a temporary piece of legislation, as it will be in force only for one year, or, if the Central Government by notification so directs, for a further period not exceeding one year. In effect, however, a Provincial Government can at any time put the measure out of operation in its Province by the cancellation of the Proclamation or Declaration referred to in clause 2 of the Bill, the existence of which is an essential condition to the exercise of the powers conferred by the Bill.

BALDEV SINGH.

NEW DELHI,

The 25th November, 1947.



L. A. BILL NO. 77 OF 1947.

A Bill to amend the Armed Forces (Emergency Duties), 1947.

WHEREAS it is expedient to amend the Armed Forces (Emergency Duties) Act, 1947 (XV of 1947), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. Short title.—This Act may be called the Armed Forces (Emergency Duties) Amendment Act, 1947.

2. Amendment of section 1, Act XV of 1947.—In section 1 of the Armed Forces (Emergency Duties) Act, 1947 (hereinafter referred to as the said Act), the brackets and figure “(1)” and sub-section (2) shall be omitted.

3. Amendment of section 2, Act XV of 1947.—In sub-section (1) of section 2 of the said Act, after the words “any specified service”, the words “in a Province, or, if so requested by the Government of an Acceding State, any specified service in that State” shall be inserted.

STATEMENT OF OBJECTS AND REASONS.

The Armed Forces (Emergency Duties) Act, 1947 (XV of 1947) was passed early this year to enable the Central Government to authorise the use of persons subject to the Indian Army Act, 1911, the Indian Air Force Act, 1932 or the Naval Discipline Act, as set forth in the First Schedule to the Indian Navy (Discipline) Act, 1934, to maintain essential services in an emergency. This Act applies at present only to the Provinces of India.

With the accession of the most of the States to the Dominion of India, it is desirable that the Central Government should have the power to authorise the employment of the personnel referred to above for the maintenance over the Acceding State of any essential service in an emergency, if so requested by the Government of that State. The Bill is designed to confer this power on the Central Government.

BALDEV SINGH.

NEW DELHI ;

The 27th November, 1947.

The following Bill was introduced in the Constituent Assembly of India (Legislature) on the 9th December 1947.

L. A. BILL *No. 78 OF 1947.

A Bill further to amend the Indian Cotton Cess Act, 1923.

WHEREAS it is expedient further to amend the Indian Cotton Cess Act, 1923 (XIV of 1923), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. Short title.—This Act may be called the Indian Cotton Cess (Amendment) Act, 1947.

2. Amendment of section 3, Act XIV of 1923.—In sub-section (1) of section 3 of the Indian Cotton Cess Act, 1923, the words “produced in India and either” and the proviso shall be omitted.

3. Amendment to have retrospective effect.—The amendment made by section 2 shall have effect as if this Act had come into force on the fifteenth day of August, 1947.

STATEMENT OF OBJECTS AND REASONS

This Bill is designed to prevent the loss of income to the Indian Central Cotton Committee consequent on the creation of the Dominion of Pakistan. Under the Indian Cotton Cess Act, 1923, cotton produced in India and either consumed by the mills in India or exported in subject to the levy of a cess, the proceeds of which are utilised in financing the Indian Central Cotton Committee. As cotton produced in Pakistan is no longer cotton ‘produced in India’, it has become necessary to amend this Act with retrospective effect to permit levy of the cess on cotton produced in Pakistan and consumed in Indian mills so as to prevent loss of income to the Committee in respect of Pakistan cotton consumed by Indian mills.

RAJENDRA PRASAD.

NEW DELHI;

The 8th December, 1947.

* In pursuance of sub section (1) and (2) of section 37 of the Government of India Act, 1935 as adapted by the India (Provisional Constitution) Order, 1947, the Governor General has recommended to the Legislature the introduction and the consideration of the Bill.

L. A. BILL^a No. 79 OF 1947.*A Bill to provide for the salaries of Ministers.*

WHEREAS it is expedient to provide for the salaries of the Ministers of the Dominion of India and for matters connected therewith;

It is hereby enacted as follows:—

1. Short title and commencement.—(1) This Act may be called the Salaries of Ministers Act, 1947.

(2) It shall come into force on the first day of January, 1948.

2. Definitions.—In this Act,—

(a) "Minister" means a Minister of the Dominion of India;

(b) "residence" includes the staff quarters and other buildings appurtenant thereto, and the gardens thereof;

(c) "maintenance" in relation to a residence includes the payment of local rates and taxes and the provision of electricity and water.

3. Salaries and allowances of Ministers.—With effect from the date on which this Act comes into force there shall be paid to each Minister a salary of three thousand rupees *per mensem*, and a sumptuary allowance of five hundred rupees *per mensem*.

4. Residences of Ministers.—(1) Each Minister shall be entitled, without payment of rent, to the use of—

(a) a fully furnished residence in New Delhi throughout his term of office and for a period of fifteen days immediately thereafter; and

(b) a fully furnished residence in Simla for such period or periods during the summer season of each year as the Governor-General may by general or special order determine; and no charge shall fall on the Minister personally in respect of the maintenance of either residence.

(2) Nothing in this section shall apply in respect of the use and occupation by any Minister of residences in New Delhi or Simla before the date on which this Act comes into force.

STATEMENT OF OBJECTS AND REASONS

The salary of the Ministers will now have to be fixed by an Act of the Dominion Legislature under the provisions of sub-section (3) of section 10 of the Government of India Act, 1935, as adapted by the India (Provisional Constitution) Order, 1947. It is therefore intended to fix the salary of the Ministers as proposed in the Bill.

V. J. PATEL.

NEW DELHI;

The 6th December, 1947.

L. A. BILL No. 80 OF 1947.

A Bill to provide for the extension of enactments to the Province of Ajmer-Merwara.

WHEREAS it is expedient to provide for the extension of enactments to the Province of Ajmer-Merwara;

It is hereby enacted as follows:—

1. Short title.—This Act may be called the Ajmer-Merwara (Extension of Laws) Act, 1947.

^aIn pursuance of sub-section (3) of section 37 of the Government of India Act, as adapted by the India (Provisional Constitution) Order, 1947, the Governor General has recommended to the Legislature the consideration of the Bill.

2. Extension of enactments to Ajmer-Merwara.—The Central Government may, by notification in the official Gazette, extend to the Province of Ajmer-Merwara with such restrictions and modifications as it thinks fit any enactment which is in force in any other Province at the date of such notification.

STATEMENT OF OBJECTS AND REASONS

In the legislative field the Province of Ajmer-Merwara is governed mainly by some old Bengal Regulations and Regulations made before 1937 by the Governor-General under the old Government of India Acts. Unlike Coorg, the Province does not have a Legislative Council of its own and the Central Legislative Assembly can scarcely be considered to be a suitable forum for the enactment of competent legislation on Provincial subjects for application to the Province. Nor is there at present any provision similar to section 7 of the Delhi Laws Act, 1912, under which progressive legislation passed in any of the other Provinces can be extended by means of a notification issued by the Central Government. It is proposed in this Bill to make such a provision for the Province of Ajmer-Merwara.

V. J. PATEL.

NEW DELHI;
The 4th December, 1947.

L. A. BILL* No. 81 OF 1947.

A Bill to provide for the enlargement of the appellate jurisdiction of the Federal Court in civil cases.

WHEREAS it is expedient to provide for the enlargement of the appellate jurisdiction of the Federal Court in civil cases;

It is hereby enacted as follows:—

1. Short title and commencement.—(1) This Act may be called the Federal Court (Enlargement of Jurisdiction) Act, 1947.

(2) It shall come into force on the first day of February, 1948, which day is hereinafter referred to as "the appointed day".

2. Definitions.—In this Act—

(a) "High Court" means any High Court to which the provisions of Chapter II of Part IX of the Government of India Act, 1935, apply;

(b) "judgment to which this Act applies" means any judgment, decree or final order of a High Court in a civil case from which a direct appeal could have been brought to His Majesty in Council, either with or without special leave, if this Act had not been passed.

3. Enlargement of the Federal Court's jurisdiction.—As from the appointed day,—

(a) an appeal shall lie to the Federal Court from any judgment to which this Act applies—

(i) without the special leave of the Federal Court, if an appeal could have been brought to His Majesty in Council without special leave under the provisions of the Code of Civil Procedure, 1908, or of an other law in force immediately before the appointed day; and

(ii) with the special leave of the Federal Court in any other case; and

*The Governor General has accorded the sanction required by sub-section (3) of section 206 of the Government of India Act, 1935, as adapted by the India (Provisional Constitution) Order, 1947, to the introduction of the Bill in the Constituent Assembly of India (Legislative).

(b) no direct appeal shall lie to His Majesty in Council, either with or without special leave, from any such judgment.

4. Continuance of certain proceedings in High Courts.—All proceedings and steps taken in, and orders made and certificates granted by, a High Court in connection with an appeal to His Majesty in Council from a judgment to which this Act applies shall, unless the records pertaining to such appeal have before the appointed day been transmitted by the High Court concerned to His Majesty in Council, be deemed to be proceedings and steps taken, orders made, and certificates granted, in connection with an appeal from that judgment to the Federal Court under this Act, and shall be concluded, or as the case may be, have effect, accordingly.

5. Pending applications for special leave to appeal.—Every application to His Majesty in Council for special leave to appeal from a judgment to which this Act applies remaining undisposed of immediately before the appointed day shall on that day stand transferred to the Federal Court by virtue of this Act, and shall be disposed of by that Court as if it had been an application duly made to that Court for special leave to appeal from the said judgment.

6. Modification of existing laws.—The provisions of the Code of Civil Procedure, 1908, and of any other law in force immediately before the appointed day relating to direct appeals in civil cases to His Majesty in Council shall, as from that day, have effect in relation to any appeal from a judgment to which this Act applies as if in the said provisions, for all references to His Majesty in Council, there had been substituted references to the Federal Court.

7. Savings.—The preceding provisions of this Act shall not apply to any appeal—

(a) which immediately before the appointed day is pending before His Majesty in Council, if the records pertaining to such appeal have before that day been transmitted by the High Court concerned to His Majesty in Council; or

(b) to the bringing of which to His Majesty in Council special leave has been granted before the appointed day; and any such appeal may be disposed of by His Majesty in Council as if this Act had not been passed.

8. Registrar's certificate to be conclusive as to fact of transmission of records.—If any question arises under section 4 or section 7 whether the records pertaining to an appeal have before the appointed day been transmitted by the High Court concerned to His Majesty in Council a certificate of the Registrar of the High Court that they have been transmitted or not transmitted before the appointed day shall be conclusive evidence on the question.

STATEMENT OF OBJECTS AND REASONS

The Bill provides for the enlargement of the appellate jurisdiction of the Federal Court in civil cases to the fullest extent permissible under section 206 of the Government of India Act, 1935, as now in force and for the abolition *pro tanto* of all direct appeals in such cases from High Courts to His Majesty in Council either with or without special leave. Although owing to the limitations imposed by the existing constitution appeals to the Privy Council cannot altogether be excluded by means of this Bill, it will when enacted have the effect of stopping the further flow of direct appeals to the Privy Council in civil cases and prepare the way for the abolition in due course of all appeals to that body. The Bill, however, does not interfere with appeals

which are pending before the Privy Council and the records of which have been transmitted to England by the High Court concerned, nor with appeals to the bringing of which special leave may have been granted by the Privy Council before the coming into force of this law. These appeals are left to be disposed of by the Privy Council under the existing law.

B. R. AMBEDKAR.

NEW DELHI;

The 5th December, 1947.

NOTES ON CLAUSES

Clause 1.—Sub-clause (2) provides for the Act coming into force on the 1st February, 1948. An interval of six or seven weeks is necessary not only to give the courts and litigants concerned as long a notice as possible of the proposed change in the forum for appeals, but also to enable the Federal Court and the High Courts to make the necessary rules for regulating procedure.

Clause 2.—The definition of "High Court" in sub-clause (a)' excludes the Courts of the Judicial Commissioners of Ajmer, Merwara and Coorg. Although these are the highest courts of appeal in the respective Provinces, they are not High Courts for the purposes of section 206 of the Government of India Act, 1935.

The definition of "judgment to which this Act applies" is strictly in accordance with the phraseology in section 206 of the Government of India Act, 1935.

Clause 3.—This clause places the Federal Court in the same as His Majesty in Council so far as appeals from judgments, etc., of High Courts are concerned. The existing distinction between appeals with special leave and appeals without special leave is maintained.

The following Report of the Select Committee on the Bill to provide for the exercise of certain extra-provincial jurisdiction of the Central Government, was presented to the Constituent Assembly of India (Legislative) on the 6th December, 1947:—

We, the undersigned members of the Select Committee to which the Extra-Provincial Jurisdiction Bill, 1947, was referred, have considered the Bill, and have now the honour to submit this our report with the Bill as amended by us annexed thereto.

The only amendments we have made are in sub-clause (2) of clause 4 of the Bill and both the amendments are of a formal character. In item (b) of the sub-clause, we have included a reference to "particular cases" in addition to "particular classes of cases", since it may be necessary to appoint a person or persons to deal with a single case. The substitution of the words "within any Province" for the words "in the Provinces" is a drafting change.

2. The Bill was published in the Gazette of India, Part V, dated the 29th November, 1947.

3. We think that the Bill has not been so altered as to require circulation under Standing Order 41(5), and we recommend that it be passed as amended.

B. R. AMBEDKAR
V. J. PATEL
GOPALDAS A. DESAI
*H. SINGH
*N. MADHAVA RAU
B. PATTABHI SITARAMAYYA
*NAZIRUDDIN AHMAD
*RAGHU RAJ SINGH
M. ANANTHASAYANAM AYYANGAR
*V. T. KRISHNAMACHARI
A. P. PATTANI

• NEW DELHI;
The 6th December, 1947.

MINUTES OF DISSENT.

I

We should like it to be made clear in the Bill by a specific amendment that extra-provincial jurisdiction shall be exercisable only in semi-jurisdictional or non-jurisdictional estates.

V. T. KRISHNAMACHARI
H. SINGH
N. MADHAVA RAU
RAGHU RAJ SINGH

NEW DELHI;
The 6th December, 1947.

II

Clause 8 should be redrafted to make it clear that it does not apply to States which are not non-jurisdictional and semi-jurisdictional States.

Clause 6 goes too far and the precedent of the Foreign Jurisdiction Act, does not in my opinion, apply to the present Bill.

There should be other consequential amendments in clause 1 and in the Preamble and Title to the Bill.

NAZIRUDDIN AHMAD.

NEW DELHI;
The 6th December, 1947.

L. A. BILL NO. 58 OF 1947

(BILL AS AMENDED BY THE SELECT COMMITTEE)

(Words under-lined indicate the amendments suggested by the Committee)

A Bill to provide for the exercise of certain extra-provincial jurisdiction of the Central Government

WHEREAS by treaty, grant, usage, sufferance and other lawful means, the Central Government has, and may hereafter acquire, jurisdiction in and in relation to areas outside the Provinces of India;

It is hereby enacted as follows :—

1. Short title.—This Act may be called the Extra-Provincial Jurisdiction Act, 1947.

2. Definitions.—In this Act,—

(a) “extra-provincial jurisdiction” means any jurisdiction which by treaty, grant, usage, sufferance or other lawful means, the Central Government has for the time being in or in relation to any area outside the Provinces;

(b) “jurisdiction” includes rights, power and authority.

3. Exercise of jurisdiction.—(1) It shall be lawful for the Central Government to exercise extra-provincial jurisdiction in such manner as it thinks fit.

(2) The Central Government may delegate any such jurisdiction as aforesaid to any officer or authority in such manner and to such extent as it thinks fit.

4. Power to make orders.—(1) The Central Government may, by notification in the official Gazette, make such orders as may seem to it expedient for the effective exercise of any extra-provincial jurisdiction of the Central Government.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), any order made under that sub-section may provide—

(a) for determining the law and procedure to be observed, whether by applying with or without modifications all or any of the provisions of any enactment in force in any Province or otherwise;

(b) for determining the persons who are to exercise jurisdiction, either generally or in particular cases or classes of cases, and the powers to be exercised by them;

(c) for determining the courts, judges, magistrates and authorities by whom, and for regulating the manner in which, any jurisdiction auxiliary or incidental to or consequential on the jurisdiction exercised under this Act is to be exercised within any Province; and

(d) for regulating the amount, collection and application of fees.

5. Validity of acts done in pursuance of jurisdiction.—Every act and thing done whether before or after the commencement of this Act, in pursuance of any extra-provincial jurisdiction of the Central Government in an area outside the Provinces shall be as valid as if it had been done according to the local law then in force in that area.

6. Evidence as to existence or extent of jurisdiction.—(1) If in any proceeding civil or criminal, in a Court established in the Provinces or by the authority of the Central Government outside the Provinces, any question arises as to the existence or extent of any extra-provincial jurisdiction of the Central Government, the Secretary to the Government of India in the appropriate department shall, on the application of the Court, send to the Court the decision of the Central Government on the question, and that decision shall for the purposes of the proceeding be final.

(2) The Court shall send to the said Secretary, in a document under the seal of the Court or signed by a judge of the Court, questions framed so as properly to raise the question, and sufficient answers to those questions shall be returned to the Court by the Secretary and those answers shall on production thereof be conclusive evidence of the matters therein contained.

7. Repeal and saving.—(1) The Extra-Provincial Jurisdiction Ordinance, 1947 (XV of 1947) is hereby repealed.

(2) Any order made, anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been made, done or taken in exercise of powers conferred by or under this Act as if this Act had commenced on the 27th day of August, 1947.

The following Report of the Select Committee on the Bill to amend the Delhi and Ajmer-Merwara Rent Control, Act, 1947, was presented to the Constituent Assembly of India (Legislative) on the 1st December, 1947:—

We, the undersigned, members of the Select Committee to which the Bill to continue in force after the expiry of the Delhi and Ajmer-Merwara Rent Control (Amendment) Ordinance, 1947 (XVIII of 1947), certain amendments of the Delhi and Ajmer-Merwara Rent Control Act, 1947 (XIX of 1947) made by that Ordinance was referred, have considered the Bill, and have now the honour to submit this our Report, with the Bill as amended by us and annexed hereto. The relevant clauses of the Ordinance have been incorporated in schedule to the Act.

Clause 5, new section 7A.—We consider that the Rent Controller should state his reasons for his decisions and that there should be a right to appeal to the District Judge within thirty days. We do not think it necessary to make the order of the District Judge final, but would prefer to leave it to the parties to have recourse to such remedies as would be open to them under the Code of Civil Procedure, 1908.

2. The Bill was published in the Gazette of India, Part V, dated November 22, 1947.

3. We think that the Bill has not been so altered as to require circulation under Standing Order 11(5), and we recommend that it may be passed as now amended.

B. R. AMBEDKAR
N. V. GADGIL
M. A. AYYANGAR
K. T. SHAH
M. S. ANEY
*THAKUR DAS BHARGAVA
*DESHBANDHU GUPTA
N. G. RANGA
K. SANTHANAM
H. J. KHANDEKAR
R. K. SIDIWA
MOHAN LAL SAKSENA
*M. B. L. BHARGAVA

NEW DELHI:

The 1st December, 1947.

MINUTE OF DISSENT

The new houses in Delhi were excluded from the jurisdiction of the Delhi and Ajmer-Merwara Rent Control Act with a view to giving encouragement to the building activities of the public.

The present Bill is sought to be enacted on the plea that the rents charged are in some cases excessive. The Government has not so far indicated how many new houses have come into existence and what is the percentage of such cases in which exorbitant rents have been charged. Anyhow the number of such houses cannot be very considerable.

The institution of the Rent Controller was abolished by the Delhi and Ajmer-Merwara Rent Control Act as it was notorious for corruption and malpractices and the jurisdiction of courts was substituted in its stead. This Bill seeks to revive this institution again which was less than a year ago notched on account of disrepute and corruption. Further it is not comprehensible why the ordinary courts which are fully competent to decide similar disputes about

the rest of the houses in Delhi should be deprived of jurisdiction as regards the new houses and a forum should be created for them.

We do not agree with the view that the Bill having been sent to the Select Committee, it was beyond the purview of the Select Committee to question the procedure envisaged in the Bill. The procedure prescribed in the Bill did not constitute the principle of the Bill to which the Select Committee or the House is committed. In our humble opinion there is no special necessity to revive the institution of the Rent Controller and devise a forum of special jurisdiction.

DESHBANDHU GUPTA
THAKUR DAS BHARGAVA
M. B. L. BHARGAVA

NEW DELHI;

The 1st December, 1947.

L. A. BILL No. 47 of 1947

(BILL AS AMENDED BY THE SELECT COMMITTEE)

(Words underlined or sidelined indicate the amendments suggested by the Committee)

A Bill to amend the Delhi and Ajmer-Merwara Rent Control Act, 1947

WHEREAS it is expedient to amend the Delhi and Ajmer-Merwara Rent Control Act, 1947 (XIX of 1947), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. **Short title.**—This Act may be called the Delhi and Ajmer-Merwara Rent Control (Amendment) Act, 1947.

2. **Amendment of section 1, Act XIX of 1947.**—In clause (a) of sub-section (2) of section 1 of the Delhi and Ajmer-Merwara Rent Control Act, 1947 (hereinafter referred to as the said Act), after the word “premises” the words “situated in the Province of Ajmer-Merwara” shall be inserted.

3. **Amendment of section 2, Act XIX of 1947.**—To clause (c) of section 2 of the said Act the following word and sub-clause shall be added, namely:—

“or

(iii) where the standard rent has been fixed under section 7A, the rent so fixed;”.

4. **Amendment of section 7, Act XIX of 1947.**—In sub-section (1) of section 7 of the said Act, after the word “premises” the words, figure and letter “other than premises to which the provisions of section 7A apply,” shall be inserted.

5. **Insertion of new section 7A in Act XIX of 1947.**—After section 7 of the said Act the following section shall be inserted, namely:—

“7A. *Special provisions relating to newly constructed premises in Delhi.*—The provisions set out in the Fourth Schedule shall apply to the fixation of rent and other matters relating to the premises in Delhi (hereinafter referred to as the newly constructed premises) the construction of which was not completed before the commencement of this section.”

6. **Insertion of Fourth Schedule in Act XIX of 1947.**—After the Third Schedule to the said Act the following shall be inserted as the Fourth Schedule, namely:—

“THE FOURTH SCHEDULE.

(See section 7A)

Provisions relating to the fixation of rent and other matters in respect of newly constructed premises in Delhi

1. “Rent Controller” for the purposes of this Schedule means the person appointed by the Central Government as the Rent Controller.

2. If the Rent Controller on a written complaint or otherwise has reason to believe that the rent of any newly constructed premises is excessive, he may, after making such inquiry as he thinks fit, proceed to fix the standard rent thereof.

3. The Rent Controller in fixing the standard rent shall state in writing his reasons therefor.

4. In fixing the standard rent the Rent Controller shall take into consideration all the circumstances of the case including any amount paid or to be paid by the tenant by way of premium or any other like sum in addition to rent.

5. No tenant holding any newly constructed premises under an existing lease or on terms otherwise agreed to between the tenant and the landlord shall be required as a result of fixation of the standard rent to pay a rate of rent higher than that fixed in the lease or otherwise agreed to during the currency of an existing lease or an extension thereof, unless the tenant has agreed to some addition, improvement or alteration being carried out in such premises on the understanding that he would pay higher rent and such higher rent is previously or at any subsequent time approved by the Rent Controller.

6. If at any time after the standard rent of any newly constructed premises has been determined under paragraph 2 it appears to the Rent Controller that subsequent to such determination some addition, improvement or alteration, not included in necessary repairs or repairs usually made to premises in that locality has been made to such premises at the landlord's expense, the Rent Controller may, after making such inquiry as he thinks fit, redetermine the standard rent thereof:

Provided that any increase in the standard rent allowed under this paragraph shall not exceed $7\frac{1}{2}$ per cent. of the cost of the addition, improvement or alteration and shall not be chargeable with effect from any date earlier than the date on which the addition, improvement or alteration was completed.

7. For the purposes of an inquiry under paragraphs 2, 5 and 6, the Rent Controller may—

(a) require the landlord to produce any book of account, document or other information relating to the newly constructed premises,

(b) enter and inspect such premises after due notice, and

(c) authorise any officer subordinate to him to enter and inspect such premises after due notice.

8. The standard rent shall in all cases be fixed by the Rent Controller as for a tenancy of twelve months:

Provided that where any newly constructed premises, the standard rent of which is fixed under this paragraph, is let or re-let for a period of less than twelve months, the standard rent for such tenancy shall bear the same proportion to the annual standard rent as the period of tenancy bears to twelve months:

Provided further that where such premises were so let or re-let by reason of the tenant being unwilling to take the same for twelve months, the standard rent for such tenancy shall be determined in accordance with the principles laid down in the Third Schedule.

9. If any dispute arises between a landlord and a tenant over the application of paragraph 8, the matter may be referred by either party to the Rent Controller for decision who shall state in writing his reasons therefor.

10. When the standard rent of any newly constructed premises has been determined—

(a) the landlord, or any person acting or purporting to act on behalf of the landlord, shall not claim or receive in consideration of the grant, renewal or continuance of a tenancy of such premises any premium, advance or other like sum in addition to rent or any rent in excess of the standard rent;

(b) any agreement for the payment of rent in excess of the standard rent shall be null and void in respect of such excess only;

(c) any agreement for the payment of any premium, advance or any like sum in addition to rent shall be null and void;

(d) any sum in excess of the standard rent and any premium, advance or any like sum in addition to the rent paid, whether before or after the coming into operation of this paragraph in respect of such premises shall be refunded to the person by whom it was paid or at the option of such person otherwise adjusted.

11. Any person aggrieved by an order of the Rent Controller may, within thirty days from the date on which the order is communicated to him, appeal to the District Judge, Delhi."

7. Repeal of Ordinance XVIII of 1947.—The Delhi and Ajmer-Merwara Rent Control (Amendment) Ordinance, 1947, is hereby repealed.

We, the undersigned members of the Select Committee to which the Bill to confer certain powers in respect of premises in the Province of Delhi was referred, have considered the Bill and now have the honour to submit this our report with the Bill as amended by us annexed hereto. We have limited the area to which the original Bill applied and we have also limited the duration of its application. We have deleted clause 10 of the original Bill as being unnecessary.

We have introduced certain new provisions in the Bill. They are contained in clauses 5, 8 and sub-clauses (2) and (3) of clause 6. We have re-arranged the provisions contained in clause 3 of the original Bill. We have distributed the provisions contained in clauses 6 and 9 of the original Bill among other clauses in the Bill as amended, in consequence of which we have deleted clauses 6 and 9. Clarity and logical sequence seems to us to justify such re-arrangement and re-distribution.

To help members of the Legislature to know how clauses 3, 6 and 9 in the old Bill are re-arranged and re-distributed and their corresponding place in the Bill as amended, we give below the following cross-references:—

<i>Bill as amended.</i>	<i>Original Bill.</i>
Clause 3 (1)	Clause 3 (5)
Clause 3 (2)	Clause 3 (4)
Clause 3 (3)	New.
Clause 3 (4)	Clause 3 (1)
Clause 3 (4) proviso	New.
Clause 3 (5)	Clause 3 (2)
Clause 6 (1)	Clause 6 (a)
Clause 6 (2)	Clause 9 (1) with modifications
Clause 6 (3)	New.
Clause 8 (i) (iii)	Clause 9 (2)

The Bill was published in Part V of the *Gazette of India*, dated 22nd November, 1947. We do not think that any of the additions, amendments and transpositions of the provisions of the original Bill have the effect of altering the

Bill in such a manner as to require its circulation under Standing Order 41(5), and we recommend that it be passed as amended.

B. R. AMBEDKAR.
N. V. GADGIL.
M. A. AYYANGAR.
M. S. ANEY.
DESIJBANDJHU GUPTA.
*THAKUR DAS BHARGAVA.
N. G. RANGA.
K. SANTHANAM.
H. J. KHANDEKAR.
MOHAN LAL SAKSENA.
R. K. SIDHWA.
M. B. L. BHARGAVA.
K. T. SHAH

NEW DELHI;

The 1st December, 1947.

MINUTES OF DISSENT

I

I regret I cannot agree to the broad and unqualified power conferred by the provision relating to release from requisition on the competent authority for making such enquiry if any as he may in any case consider it necessary to make and specify by order the person to whom possession of the premises shall be given.

In my humble opinion possession should ordinarily be restored to the person in such cases from whom the possession was originally taken. In case of death possession can be made over to his legal heirs.

If he and his heirs are not traceable the possession can be made over to the person found on enquiry to be best entitled to it. Of course declaration or decision by Court shall be binding on competent authority. Even agreement between tenant and landlord at the time of requisition or subsequent thereto can also be given effect to.

But in the absence of any adjudication by Court or agreement between persons entitled to possession the general rule must be followed. It would be most dangerous to arm the competent authority to arbitrarily decide and choose such perfunctory enquiry as it chooses to make or without any enquiry at all the person to whom possession is to be given.

In many cases the question of possession is of very great importance in determining title and becomes a question of title. True the succeeding sub-clause is designed to safe-guard against any prejudice to the right of the person entitled to the property.

It is unfortunately not fully realised that in a suit for possession the person out of possession has to show a better right as against the person in possession. The onus of proof which is so material in such cases will be placed on the person out of possession.

If premises are requisitioned from a person who has been in adverse possession for a period of 1½ years and then after lapse of 1½ years of requisition they are returned not to the person from whom possession was taken but to the person whom the competent authority considers better entitled to possession the case of the person in possession whose title was in course of perfection would be prejudiced beyond measure and this unjustified interference in possession and consequently title would unjustifiably disturb the even tenor of legal relation relating to possession and title. Moreover the person from whom the competent authority took possession shall be deprived of possession for such

* Subject to a Minute of Dissent.

period as the litigation hangs on. Anyhow, it is not permissible to allow the vagaries of the competent authority to gamble in matters of possession and title of persons whose only misfortune is that their premises happen to be requisitioned.

The power to evict from Government premises persons who have been living for a period of more than eight months, i.e., even before the Delhi and Ajmer-Merwara Rent Control Act was passed as such tenants or otherwise without providing for their alternative accommodation is also drastic.

The Government has acquiesced in their long possession and by its conduct condoned subletting for such a long time. In fairness such persons should not be thrown on the streets when it is so difficult to find accommodation now in Delhi.

I am also of the opinion that while Government is arrogating to itself and its servants powers which are abnormal and arbitrary the Bill should not give more protection to the Government and its servants than usual

THAKUR DAS BHARGAVA.

NEW DELHI;

The 1st December, 1947.

II

Section 11 of the Delhi Ajmer-Merwara Rent Control Act of 1947 already empowers the Government to requisition residential premises in New Delhi. It was the view of the Legislature that in so far as the requirements of the Foreign Embassies were concerned, the powers given by the said Act were sufficient. In view of the high pressure on housing accommodation in Delhi which has further increased recently due to influx of refugees from Pakistan, a very large majority of whom are lodged in private houses, I strongly feel that there is not much scope for requisitioning of private buildings without causing great hardships to the inhabitants of Delhi. I am therefore opposed to giving wide powers of requisitioning which the Bill seeks to give to the Government. In my humble opinion the scope of the Bill should be so restricted that: (a) it may apply only to residential premises of the rental value of Rs. 200/- and over; (b) It should not apply to the houses occupied by landlords and their families for *bona fide* residential purposes; (c) It should be obligatory on the part of the Government to provide suitable alternative accommodation to the tenants who may be dispossessed by Government.

DESHBANDHU GUPTA.

NEW DELHI;

The 1st December, 1947.

L. A. BILL No. 49 OF 1947.

(BILL AS AMENDED BY THE SELECT COMMITTEE.)

(Words underlined or sidelined indicate the amendments suggested by the Committee; asterisks indicate omissions.)

A Bill to confer certain powers in respect of premises in the Province of Delhi.

WHEREAS by reason of the shortage of accommodation in the Province of Delhi an emergency has arisen which makes it necessary to confer powers to requisition premises and to evict from Government premises persons continuing without authority to occupy those premises;

It is hereby enacted as follows:—

1. **Short title, extent and commencement.**—(1) This Act may be called the Delhi Premises (Requisition and Eviction) Act, 1947.

(2) It extends to the Notified area of the Civil Station (Delhi), to New Delhi and to Karolbagh area. The Central Government may by notification in the official Gazette extend this Act to such other area or areas in the Province of Delhi as may be specified therein.

(3) It shall come into force at once.

(4) It shall remain in force till the 31st day of December, 1949, but the Central Government may by notification in the official Gazette extend it for a further period of one year.

2. Interpretation.—In this Act, unless there is anything repugnant in the subject or context,—

(a) "compensation" includes—

- (i) rent payable in respect of the premises requisitioned under this Act;
- (ii) damages for any injury to the premises;
- (iii) expenses on account of vacating or re-occupying the premises consequent on requisition and de-requisition;
- (iv) pecuniary loss due to requisitioning;

(b) "competent authority" means the Estate Officer to the Government of India, and includes any other person authorised by the Central Government by notification in the official Gazette to perform all or any of the functions of a competent authority under this Act:

Provided that in respect of any function performable after the making of an order under sub-section (1) of section 8 or sub-section (1) of section 8, references to the competent authority shall be construed as references to the competent authority making that order;

(c) "landlord" has the meaning assigned to it in the Delhi and Ajmer-Merwara Rent Control Act, 1947 (XIX of 1947);

(d) "premises" means any building or part of a building and includes—

- (i) the garden, grounds and outhouses, if any, appertaining to such building or part of a building,
- (ii) any furniture supplied by the landlord for use in such building or part of a building, and
- (iii) any fittings affixed to such building or part of a building for more beneficial enjoyment thereof;

(e) "public purpose" means any purpose which is so declared by rules made under this Act;

(f) "tenant" means any person by whom or on whose account rent is payable for any premises and includes every person for the time being deriving title under a tenant and also every person remaining in possession of the premises leased to him after the termination of the lease.

3. Power to Requisition.—(1) Whenever it appears to the competent authority that any premises is needed or is likely to be needed for any public purpose it shall be lawful for him or for any other person, either generally or specially authorized by such authority in this behalf, after due notice to enter upon and inspect such premises for the purpose of determining whether and if so, in what manner an order under this section shall be made in relation to such premises or with a view to securing compliance with any order made under this Act.

(2) The competent authority, with a view to requisition any premises under this sub-section, may by an order—

- (a) require any person to furnish to such authority as may be specified in the order such information in his possession relating to the premises as may be so specified;
- (b) direct that the landlord, occupier or person in possession of the premises shall not without the permission of the competent authority dispose of or structurally alter the premises.

(7) Where the competent authority decides that it is necessary to requisition the premises he shall call upon the landlord and the tenant or the person in possession by notice in writing to show cause within seven days why the premises should not be requisitioned.

(8) If after considering the cause if any, shown by the landlord or the tenant or the person in possession the competent authority is satisfied that it is necessary to requisition the premises he may make an order in writing to that effect:

Provided that where a landlord or tenant is using any premises for the residence of himself or his family the competent authority shall as far as possible provide alternative accommodation which in the opinion of the competent authority is suitable.

(9) A notice under sub-section (3) and an order under sub-section (4) shall be served on the landlord and where the notice of the order relates to premises in occupation of the tenant also on such tenant by delivering or tendering to such landlord and tenant a copy of the notice and the order. But where the landlord or tenant is not readily traceable and the notice and the order cannot be served without undue delay or where ownership of the premises is in dispute the notice and the order shall be served by publishing it in the official Gazette and by affixing a copy thereof to any conspicuous part of the premises to which it relates.

4. Exclusion of certain premises from requisitioning.—Nothing in section 3 shall empower the competent authority to requisition premises which are exclusively used for the purpose of religious worship or which are in use for a school, orphanage, or hospital.

5. Appeal. Any person aggrieved by an Order of Requisition may, within seven days from the date on which it is communicated to him, appeal from such order to the Chief Commissioner, Delhi, on the ground that the provisions of this Act relating to requisitioning have not been complied with.

6. Power to order vacation of premises.—(1) Where the competent authority requisitions any premises under this Act, he may by notice in writing order the existing tenant or occupier, if any, to vacate the premises within ten days of the receipt of the notice.

(2) If any person fails to comply with an order made under sub-section (1) he shall be deemed to be a trespasser and the Competent Authority may take possession of the premises requisitioned forthwith.

(3) The right to take possession under this section shall not be affected by reason of any appeal preferred against the order of Requisitioning.

7. Compensation.—(1) Where any premises are requisitioned under this Act, * * * the amount of compensation shall be determined in the manner, and in accordance with the principles hereinafter set out, namely—

(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement.

(b) where no such agreement can be reached, the Central Government shall appoint as arbitrator a person qualified for appointment as a Judge of a High Court;

(c) the Central Government may, in any particular case, nominate a person having expert knowledge as to the nature of the premises requisitioned, to assist the arbitrator, and where such nomination is made, the person to be compensated may also nominate an assessor for the said purpose;

(d) at the commencement of the proceedings before the arbitrator, the Central Government and the person to be compensated shall state what in their respective opinions is a fair amount of compensation;

(e) the arbitrator in making his award shall have regard to the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894 (I of 1894) so far as they can be made applicable;

(f) an appeal shall lie to the District Judge against an award of an arbitrator;

(g) save as provided in this section and in any rules made thereunder, nothing in any law for the time being in force shall apply to arbitrations under this section.

(2) The compensation shall be paid by the competent authority to the person entitled thereto.

8. Rights and Liabilities of the Central Government.—(1) Where any premises are requisitioned under this Act, the Central Government—

(i) may use or deal with the premises for such purpose as may be mentioned in the Order of Requisition;

(ii) may, without prejudice, to the liabilities it may be subject to in respect thereof, transfer by way of sub-lease the whole or any part of such premises;

(iii) may order the landlord to execute necessary repairs or repairs usually made to premises in that locality and as may be specified in the notice, within such time as may be mentioned therein and if the landlord fails to execute any repairs in pursuance of such order the competent authority may cause the repairs specified in the order to be executed at the expense of the landlord and the cost thereof may, without prejudice to any other mode of recovery, be deducted from the compensation payable to the landlord;

(iv) shall restore the premises in as good condition as they were in at the time when possession thereof was taken subject only to the changes caused by reasonable wear and tear and irresistible force;

(2) Where any premises requisitioned under this Act or any material part thereof, are wholly destroyed or rendered substantially and permanently unfit for the purpose for which they were let by reason of fire, tempest or flood or violence of any army or of a mob or other irresistible force, the requisition shall at the option of the Central Government be void.

Provided that if the injury is occasioned by the wrongful act or default of the Central Government, the Central Government shall not be entitled to avail itself of the benefit of this section.

9. Release from requisition.—(1) Where any premises requisitioned under this Act are to be released from such requisition, the competent authority may, after such inquiry if any as he may in any case consider it necessary to make, specify by order in writing the person to whom possession of the premises shall be given.

(2) The delivery of possession of the premises to the person specified in an order under sub-section (1) shall be a full discharge of the Central Government from all liabilities in respect of the premises, but shall not prejudice any rights in respect of the premises which any other person may be entitled by due process of law to enforce against the person to whom possession is given.

10. Easements, etc., not to be disturbed.—No landlord or any contractor, workman or servant employed by him shall without the previous written consent of the competent authority or except for the purposes of effecting repairs or complying with a municipal requisition, wilfully disturb any convenience or easement attached to any premises requisitioned under this Act, or remove, destroy or render unserviceable anything provided for permanent use therewith or discontinue or cause to be discontinued any supply or service provided for the premises.

11. Power to evict from Government premises for breach of terms of tenancy.—(1) Where the person in occupation of any premises belonging to, or taken on lease or requisitioned by, the Central Government, sublets without due authority the whole or any part of the premises or otherwise acts in contravention of any of the terms, express or implied, of his tenancy or other like relationship created by a grant from the Central Government in respect of the premises, or where any person is in occupation of any such premises without the authority of the Central Government, the competent authority may by notice served by post or otherwise, order such person or any other person found in occupation of the premises to vacate the premises within ten days of the receipt of the notice.

(2) Any person aggrieved by an order under sub-section (1) may within seven days of the receipt thereof appeal in writing to the Chief Commissioner, who may, after calling for a report from the competent authority and after making such further inquiry, if any, as he thinks fit, pass an order determining the appeal.

(3) Action may be taken under this section whether or not any proceedings for possession are pending in respect of the premises, and upon such action being taken the said proceedings shall forthwith be vacated.

12. Power to make rules.—(1) The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the power conferred by sub-section (1), rules made thereunder may provide for—

(a) the procedure to be followed in arbitrations and appeals under section 4;

(b) the principles to be followed in apportioning the costs of proceedings before the arbitrator and on appeal under section 4;

(c) the procedure to be followed by a competent authority in inquiries under section 5;

(d) for defining what are public purposes;

(e) the procedure to be followed in taking possession of the premises requisitioned;

(f) the manner of service of notices and orders.

13. Saving as to orders.—(1) Except as otherwise provided for in this Act no order made in exercise of any power conferred by or under this Act shall be called in question in any Court.

(2) Where an order purports to have been made and signed by any authority in exercise of any power conferred by or under this Act, a Court shall presume, within the meaning of the Indian Evidence Act, 1872 (I of 1872), that such order was so made by that authority.

14. Protection of action taken under this Act.—(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

(2) Save as is otherwise expressly provided in this Act, no suit or other legal proceeding shall lie against the Central Government for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

15. Application of other laws not barred.—(1) The provisions of this Act shall be in addition to and not in derogation of the provisions of the Delhi and Ajmer-Merwara Rent Control Act, 1947 (XIX of 1947)

(2) The provisions of this Act shall have effect notwithstanding anything * * contained in any other law or in any instrument having effect by virtue of any other law.

16. Repeal.—(1) The Delhi Premises (Requisition and Eviction) Ordinance, 1947 (XII of 1947), and the Delhi Premises (Requisition and Eviction) Amendment Ordinance, 1947 (XXI of 1947), are hereby repealed.

(2) Anything done or any action taken in exercise of any power conferred by or under either of the said Ordinances shall be deemed to have been done or taken in exercise of powers conferred by or under this Act as if this Act had commenced on the 13th day of August, 1947.

M. N. KAUL,
Secy. to the Govt. of India.

